

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

RICHARD FIGUEROA,

Plaintiff,

v.

JEH JOHNSON, Secretary,
U.S. Department of Homeland Security,

Defendant.

**DECLARATION OF AUSA
SETH D. EICHENHOLTZ**

Civil Action No. CV-11-2087
(Kuntz, J.)
(Levy, M.J.)

SETH D. EICHENHOLTZ, declares pursuant to 28 U.S.C. § 1746, under penalty of perjury, that the following is true and correct:

1. I am an Assistant United States Attorney, of counsel to Loretta E. Lynch, United States Attorney, Eastern District of New York, attorney for Defendant Johnson.¹ I have responsibility for the defense of this action. I submit this declaration in support of Defendant's Motion for Summary Judgment, and to place before the Court true and correct copies of various documents that support Defendant's motion.

2. Attached as Exhibit A is a true and correct copy of Plaintiff's Amended Complaint.

3. Attached as Exhibit B is a true and correct copy of relevant portions of Plaintiff's deposition testimony.

4. Attached as Exhibit C is a true and correct copy of relevant portions of Kampel Sachdeva (Verdi)'s deposition testimony.

¹ The Honorable Jeh Johnson is the current Secretary of Homeland Security, having taken office on December 23, 2013. He is automatically substituted for Janet Napolitano as the named official defendant. See Fed. R. Civ. P. 25(d)(1).

5. Attached as Exhibit D is a true and correct copy of relevant portions Plaintiff's testimony from administrative EEO proceedings.

6. Attached as Exhibit E is a true and correct copy of a memorandum from Tim Jernigan regarding Plaintiff's Thanksgiving Day work assignment.

7. Attached as Exhibit F is a true and correct copy of an affidavit by Kampel Sachdeva.

8. Attached as Exhibit G is a true and correct copy of a March 17, 2008 Suspension Proposal Letter regarding Plaintiff.

9. Attached as Exhibit H is a true and correct copy of a December 31, 2007 memorandum from Kampel Sachdeva regarding the December 29, 2007 incident with Plaintiff.

10. Attached as Exhibit I is a true and correct copy of a September 8, 2008 memorandum from Plaintiff.

11. Attached as Exhibit J is a true and correct copy of a January 3, 2008 memorandum from Plaintiff.

12. Attached as Exhibit K is a true and correct copy of relevant portions Chief Laura Rios's deposition testimony.

13. Attached as Exhibit L is a true and correct copy of a memorandum from Chief Rios regarding the December 29, 2007 incident involving Plaintiff.

14. Attached as Exhibit M is a true and correct copy of an April 18, 2008 letter from Plaintiff responding to charges against him and raising allegations against his supervisor.

15. Attached as Exhibit N is a true and correct copy of the Administrative Inquiry Report regarding CBP's investigation into Plaintiff's April 18, 2008 allegations.

16. Attached as Exhibit O is a true and correct copy of an affidavit from Helen Ashton.
17. Attached as Exhibit P is a true and correct copy of a September 11, 2008 affidavit from Chief Rios.
18. Attached as Exhibit Q is a true and correct copy of a May 21, 2009 letter from Area Director Camille Polimeni affirming Plaintiff's suspension.
19. Attached as Exhibit R is a true and correct copy of an August 8, 2008 E-mail from Peter Parisi.
20. Attached as Exhibit S is a true and correct copy of a Memorandum of Understanding (MOU) Between CBP and National Treasurer and Employees Union (NTEU).
21. Attached as Exhibit T is a true and correct copy of a Memorandum of Guidance Regarding CBP's Bid and Rotation Process.
22. Attached as Exhibit U is a true and correct copy of Plaintiff's January 2009 bid sheet.
23. Attached as Exhibit V is a true and correct copy of a May 12, 2009 E-mail Statement from Camille Polimeni.
24. Attached as Exhibit W is a true and correct copy of a May 18, 2009 Declaration from Assistant Area Director John Mirandona.
25. Attached as Exhibit X is a true and correct copy of a declaration from Clifford Harris.
26. Attached as Exhibit Y is a true and correct copy of an April 10, 2009 E-mail from Clifford Harris.

27. Attached as Exhibit Z is a true and correct copy of a December 2010 E-mail from Greg Eddy.

28. Attached as Exhibit AA is a true and correct copy of relevant portions Supervisor Pedro Cano's deposition testimony.

29. Attached as Exhibit BB is a true and correct copy of a July 27, 2011 E-mail from Plaintiff to Commander Youngs.

30. Attached as Exhibit CC is a true and correct copy of a July 25, 2011 E-mail from Supervisor Cano.

31. Attached as Exhibit DD is a true and correct copy of relevant portions of the July 25, 2011 sign-in sheet for JFK Terminal 4.

32. Attached as Exhibit EE is a true and correct copy of relevant portions of the CBP Leave Handbook.

33. Attached as Exhibit FF is a true and correct copy of relevant portions of the Deposition of Commander Chance Youngs.

34. Attached as Exhibit GG is a true and correct copy of an E-mail exchange between Plaintiff and Commander Youngs.

35. Attached as Exhibit HH is a true and correct copy of a November 29, 2011 Proposed Suspension Letter.

36. Attached as Exhibit II is a true and correct copy of Plaintiff's May 23, 2012 Suspension Notification.

37. Attached as Exhibit JJ is a true and correct copy of a November 25, 2011 E-mail from Commander Youngs.

38. Attached as Exhibit KK is a true and correct copy of Plaintiff's February 22, 2012 Suspension Proposal Notification.

39. Attached as Exhibit LL is a true and correct copy of Plaintiff's March 26, 2012 Suspension Notification Letter.

Dated: Brooklyn, New York
September 22, 2014

LORETTA E. LYNCH
United States Attorney
Eastern District of New York
Attorney for Defendant Johnson
271 Cadman Plaza East, 7th Floor
Brooklyn, New York 11201

By: /s/
Seth D. Eichenholtz
Assistant United States Attorney
(718) 254-7036
Seth.Eichenholtz@usdoj.gov

cc: Alan E. Wolin, Esq.
Attorney for Plaintiff
Wolin & Wolin, Esqs
420 Jericho Turnpike, Suite 215
Jericho, NY 11753

Exhibit A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

RICHARD FIGUEROA,	:	Civil Action No. 11-2087 cv
	:	(Kuntz, J.) (Levy, MJ)
<i>Plaintiff,</i>	:	
	:	
- against -	:	
	:	<u>AMENDED VERIFIED COMPLAINT</u>
JANET NAPOLITANO, Secretary,	:	
U.S. Department of Homeland Security,	:	
	:	
<i>Defendant.</i>	:	Trial by Jury

Plaintiff, Richard Figueroa, by and through his attorneys, Wolin & Wolin, complaining of the defendant, Janet Napolitano, Secretary, U.S. Department of Homeland Security, alleges as follows:

Introduction

1. This is an action brought pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq., as amended, more specifically 42 U.S.C. § 2000e-5 and 42 U.S.C. § 2000e-16 in which plaintiff alleges employment discrimination based upon his national origin (Hispanic), sex/gender (Male), and retaliation based upon his prior protected activities. Plaintiff seeks appropriate monetary, equitable and other relief to redress the wrongdoing complained of herein.

Statement Pursuant to Local Rule 9

2. For purposes of complying with Local Rule 9, plaintiff states that he has no

corporate parent, subsidiary or affiliate and that there are no other interested parties.

Jurisdiction and Venue

3. Jurisdiction of the Court over this controversy is based upon 42 U.S.C. § 2000e-5(f) and 42 U.S.C. § 2000e-16.

4. Venue is proper in this District pursuant to 42 U.S.C. § 2000e-5(f)(3).

Exhaustion of Administrative Remedies

5. On or about March 17, 2009, plaintiff, an employee of the U.S. Department of Homeland Security, U.S. Customs and Border Protection ("Agency") at the John F. Kennedy (JFK) International Airport filed a formal written complaint of discrimination in which he claimed that the Agency had discriminated against him on the basis of national origin (Hispanic), sex/gender (Male), and in reprisal for his prior protected activities, when, on February 2, 2009, his work assignment preference request for Cargo Operations was not approved and he was assigned to Passenger Operations (Primary Inspections). This complaint bore Agency No. HS-CBP-003831-040112.

6. On or about July 30, 2009, plaintiff filed a second formal written complaint of discrimination in which he claimed that the Agency had discriminated against him on the basis of national origin (Hispanic), sex/gender (Male) and in reprisal for his prior protected activities, when he was suspended from duty and pay for one day, effective June 16, 2009. This complaint bore Agency No. HS-09-CBP-007263-040126.

7. The Agency accepted plaintiff's formal written complaints and

consolidated them for investigation.

8. After the completion of the investigation, plaintiff requested a hearing before an EEOC Administrative Judge. The matter was then referred to Monique J. Roberts, Administrative Judge, Equal Employment Opportunity Commission.

9. In a Decision Without a Hearing dated August 4, 2010, Administrative Judge Roberts held that "I find, after a review of the entire record, that there is no discrimination in this complaint." Accordingly, Administrative Judge Roberts entered judgment in favor of the Agency.

10. Thereupon, on September 3, 2010, the Agency issued a Final Agency Decision (FAD) adopting the Administrative Judge's decision.

11. Plaintiff then duly appealed the FAD to the EEOC, Office of Federal Operations.

12. In a decision dated January 31, 2011, the EEOC Office of Federal Operations affirmed the FAD.

13. The decision further informed plaintiff of his right to file a civil action in an appropriate U.S. District Court within ninety (90) days from the date that he received the decision.

14. Plaintiff filed this action on April 29, 2011, within the time prescribed by statute.

15. Subsequent to the commencement of the action, plaintiff filed two (2)

additional formal complaints (HS-CBP-01818-2011 filed September 28, 2011 and HS-CBP-21381-2012 filed December 23, 2011) with the Agency, within which he alleged new allegations of discrimination, retaliation and the creation of a hostile work environment.

16. On January 6, 2012, the Agency consolidated the complaints for investigation.

17. On July 2, 2012, plaintiff requested a FAD.

18. On September 28, 2012, the Agency issued a FAD concluding that plaintiff had failed to prove that the agency discriminated and/or retaliated against him and did not create a hostile work environment.

19. The decision further informed plaintiff of his right to file a civil action in an appropriate U.S. District Court within ninety (90) days from the date that he received the decision.

20. Plaintiff, with the consent of defendants' counsel, is amending his complaint to add the additional acts of discrimination, retaliation and the creation of a hostile work environment.

Parties

21. Plaintiff, Richard Figueroa, was and still is a citizen of the United States of America and, at all relevant times, was and still is a resident of the State of New York, County of Bronx.

22. Defendant, Janet Napolitano, is the duly appointed and sworn Secretary

of the U.S. Department of Homeland Security and is that agency head, under 42 U.S.C. § 2000e-16 and other applicable statute, who is the appropriate defendant herein.

Facts

23. Plaintiff is currently employed as a Customs and Border Protection Officer (CBPO) at the JFK International Airport in Jamaica, New York. He is a legacy Customs Inspector, having first started with the Agency on July 9, 2001.

24. Plaintiff is a Hispanic male.

25. Plaintiff has worked different branches of the agency. He worked in Passenger Processing (Baggage) until approximately 2006.

26. Plaintiff was then assigned to the Mail Branch, on March 20, 2006, for approximately two years.

27. After the Mail Branch, Plaintiff was assigned to work in the Cargo Facility in or about April, 2008. He remained in the Cargo Facility for approximately ten months.

28. Plaintiff then was reassigned to Passenger Processing in or about February, 2009.

29. In October, 2009, Plaintiff was reassigned back to the Cargo Facility.

30. In or about 2006, while Plaintiff was assigned to the Mail Branch, one Kompel Sachdeva, a Supervisory Customs and Border Protection Officer (SCBPO), became Plaintiff's supervisor.

31. On and after September 16, 2006, SCBPO Sachdeva started to smile at

Plaintiff and give him unusual attention.

32. SCBPO Sachdeva also began sitting close to Plaintiff during lunch breaks.

33. Plaintiff received said unusual attention from SCBPO Sachdeva on several occasions.

34. On one occasion, SCBPO Sachdeva placed her hand on Plaintiff's thigh.

35. Plaintiff believes that, on these occasions, SCBPO Sachdeva sat uncomfortably close to him and invaded his personal space. Plaintiff felt extremely uncomfortable by her actions.

36. Plaintiff was shocked when SCBPO Sachdeva placed her hand on his thigh.

37. Other officers were present when SCBPO Sachdeva engaged in this conduct.

38. Plaintiff believed that SCBPO Sachdeva's conduct was unwelcome and inappropriate. He was horrified by it.

39. SCBPO Sachdeva's unusual attention toward Plaintiff only stopped when SCBPO Sachdeva began a relationship with Steve Guzman, a contracted Security Guard for the U.S. Postal Service.

40. After Plaintiff rejected SCBPO Sachdeva's advances, SCBPO Sachdeva began retaliating against him.

41. SCBPO Sachdeva had Plaintiff working holiday assignments that he should have been exempt from.

42. SCBPO Sachdeva assigned Plaintiff to work Thanksgiving, Christmas and New Year's Day, all holidays that he should not have been assigned to work based upon his seniority.

43. At the relevant time, in 2006-2007, holidays were supposed to be assigned according to seniority.

44. SCBPO Sachdeva assigned Plaintiff to work on Thanksgiving and Christmas in 2007. Based upon his seniority, Plaintiff should not have been assigned to work these holidays.

45. Plaintiff spoke to Supervisors Sciacca and Mitnick, both of whom advised him that they would not have done the holiday scheduling in the same manner that it was done.

46. Officer Fischetti, a junior officer, was not assigned to work on Christmas in 2007. Plaintiff believes that Officer Fischetti, as a junior officer, should have been assigned to work Christmas, 2007.

47. By Thanksgiving 2007, there were five officers who were beneath Plaintiff in terms of seniority. These officers should have been assigned to work the holiday before Plaintiff. They include Officers Fischetti and Vinokur.

48. Plaintiff discussed the deviation of the holiday scheduling policy with management.

49. When Plaintiff was the junior officer, in the previous year, he did work

Thanksgiving and Christmas.

50. Because of personal circumstances beyond his control, Plaintiff did not actually work on Thanksgiving and Christmas in 2007.

51. However, he was then required to work on New Year's Day because did not work on Christmas.

52. Other employees in the Mail Branch, who unavoidably cannot work an assigned holiday, are not required to work the very next holiday, as Plaintiff was.

The Suspension

53. Plaintiff had a discussion about the holiday schedule with SCBPO Sachdeva on December 29, 2007.

54. At the time, SCBPO Sachdeva approached Plaintiff and stated she wanted to have a personal conversation "between you and me" no one's business. Plaintiff protested and SCBPO Sachdeva kept insisting.

55. During the conversation, Plaintiff did not tell SCBPO Sachdeva that "she f**ked [him] with regard to holiday scheduling." In fact, he never used the word "f**k" during the conversation with SCBPO Sachdeva.

56. Plaintiff never used any profanity in his conversation with SCBPO Sachdeva.

57. SCBPO Sachdeva did use profanity during the conversation with Plaintiff.

58. During the conversation, both SCBPO Sachdeva and Plaintiff raised their voices as to why the holiday pattern was not being followed.

59. Plaintiff believed that SCBPO Sachdeva's explanations were ludicrous, ridiculous and not possible.

60. Plaintiff stated that he had previous experience assigning people and did not understand the problem. SCBPO Sachdeva responded that "Well maybe you should have made the assignments if it is that easy."

61. Plaintiff felt terrible about the "heated private conversation" and told SCBPO Sachdeva they should drop the issue. SCBPO Sachdeva agreed and apologized. However a few days later, management ordered Plaintiff to write a memorandum about the discussion with SCBPO Sachdeva.

62. On or about January 15, 2008, the Agency decided to draft a letter proposing a 2-day suspension of Plaintiff based on SCBPO Sachdeva's statement of what occurred between she and Plaintiff during the December 29, 2007 conversation.

63. On March 18, 2008, the Agency issued a letter to Plaintiff advising him of a proposed 2-day suspension.

64. Plaintiff responded to the proposed suspension by writing an e-mail to upper management claiming that he was being discriminated and retaliated against and was the victim of a hostile work environment. This communication constituted protected activity which plaintiff believed he could engage in without fear of reprisal.

65. The e-mail, addressed to Susan T. Mitchell, DFO New York; Camille Polimeni, Area Director, JFK Airport; Rosemary Oliveri, L&R Specialist NY; and the local

EEO Manager, stated that the proposed suspension was in response to the fact that he rebuffed SCBPO Sachdeva's unwelcome and improper overtures.

66. Plaintiff was forcibly transferred to Cargo on April 21, 2008, days after he sent the e-mail complaining of a hostile work environment on April 14, 2008.

67. Plaintiff believed that this action was discriminatory and retaliatory. At the time, SCBPO Jernigan mocked him and discussed the complaint in public and mentioned that Plaintiff might now refer to him in a complaint.

68. At this time, Plaintiff sought EEO counseling. Plaintiff, in that EEO complaint, identified the following issues: (1) he was assigned to work Thanksgiving Day in 2007 and Martin Luther King Day in January, 2008; (2) on March 18, 2008 he received a letter proposed a 2-day suspension; and (3) on April 21, 2008 he was reassigned to Cargo. After counseling was completed, Plaintiff did not initiate a formal complaint at that time. The seeking of EEO counseling also constituted protected activity which plaintiff believed he could engage in without fear of reprisal.

69. In an initial interview on May 1, 2008, Plaintiff indicated that he had been subject to a hostile work environment by SCBPO Sachdeva, who was acting inappropriately towards him. Plaintiff specifically mentioned that SCBPO Sachdeva batted her eyes at him while in the break room; would sit close to him; touched his leg; and, on several occasions, attempted to initiate conversations that were not work related.

70. The Agency claims that it held Plaintiff's suspension in abeyance until an investigation into his allegations of a hostile work environment could be conducted.

71. Thereupon, after the Agency claimed it completed its investigation, it issued a second letter proposing a 2-day suspension with regard to Plaintiff's meeting with SCBPO Sachdeva.

72. On or about June 18, 2009, JFK Airport Area Director, Camille Polimeni, issued a 1-day suspension to Plaintiff. Plaintiff believed that any suspension was baseless.

The Bid Issue

73. There is a bid rotation placement process (BRP). Pursuant to this process, officers who are facing discipline are not eligible to bid.

74. If an officer is eligible to bid, he/she will indicate assignment preferences for the upcoming year.

75. Those assignments are supposed to be made according to seniority, which is the sole factor in determining BRP assignments, provided an officer is not facing disciplinary issues at the time.

76. In December, 2008 - January, 2009, Plaintiff received an e-mail instructing him to fill out a bid assignment sheet.

77. The instructions told Plaintiff that he needed to bid and a failure to do so would result in him being assigned back to Passenger Processing.

78. Plaintiff was forced to participate; although he should not have been. At

the time, Plaintiff had received a proposal for a 2-day suspension. Plaintiff should not have been required to bid because, at the time, he was facing disciplinary action.

79. At the time, Plaintiff was not eligible to participate in the BRP process. Section 1, paragraph B of the National Agreement between NTEU and CBP states that if an officer is facing a disciplinary issue, that officer cannot participate in the BRP process. Plaintiff, therefore, should not have been compelled to bid and should have been retained in Cargo.

80. Plaintiff was in Cargo at the time. Another officer, who was in Cargo at the time, was also facing disciplinary action. He was not required to bid and was kept in Cargo. This person, Officer Jeffrey Rochman, is Caucasian.

81. An African-American officer, Officer Brown, was told to bid, despite facing discipline. He won his bid to Cargo and then was precluded from exercising it because he was facing disciplinary action.

82. The proposal letter to suspend Plaintiff from duty for 2-days was dated March 17, 2008 and was still pending when Plaintiff was required to bid.

83. At the time, Plaintiff was not aware that his proposed discipline had been placed on hold while the Agency was allegedly investigating his claim that SCBPO Sachdeva had sexually harassed him. On the contrary, he was led to believe that the proposal was taking its course.

84. Plaintiff believes he was forced to participate in the bid assignment. Cargo

was his first choice. He cannot remember the other choices. He did not bid on Passenger Processing (Baggage).

85. Plaintiff's seniority date is July 9, 2001. This placed him approximately 367 out of 1033. Only a handful of officers did not receive their choice of assignment. Of those, Plaintiff was the most senior.

86. As a result of the BRP in February, 2009, Plaintiff was assigned to work at Passenger Processing (Baggage).

87. Everyone with more seniority than Plaintiff received one of their choices.

88. All relevant management officials were aware that plaintiff was a Hispanic male and had engaged in the said protected activity.

89. Plaintiff believes that Supervisor Jernigan, one of his second line supervisors at the Mail Branch, ridiculed him for having complained of a hostile work environment. He also asked Plaintiff if he wanted to take his statements back on the day that he was transferred from the Mail Branch.

90. Charles Mattina, another one of Plaintiff's first line supervisors, made anti-Hispanic remarks.

Actions Subsequent to the Commencement of this Action

91. On April 29, 2011, plaintiff filed the within action, which constituted protected activity that plaintiff undertake without the fear of retaliation and reprisal.

92. On July 25, 2011, plaintiff's supervisor, Supervisory Customs and Border

Protection Officer (SCBPO) Pedro Cano, without cause, yelled at plaintiff and threatened him for working in an unassigned booth, despite the fact that the booth to which he was assigned was occupied by another CBPO.

93. On July 29, 2011, Deputy Chief (DC) Chance Youngs required plaintiff to provide a written statement addressing the alleged incident that occurred between plaintiff and SCBPO Cano on July 25, 2011. DC Youngs asked plaintiff to explain why he allegedly refused to report to an assignment and left his work assignment without supervisory approval. DC Youngs marked plaintiff as absent without permission for 7½ hours on July 25, 2011, even though he had adequate sick time in his leave bank. DC Youngs did so in a demanding and interrogative manner without affording plaintiff his contractual rights to have a representative present.

94. The allegations against plaintiff were false and in bad faith.

95. Plaintiff responded to DC Youngs request on August 4, 2011, in which he denied that he refused to report to an assignment and that he departed because he was ill and went to seek medical treatment and had so reported to SCBPO Cano.

96. In a Notice of Proposed Suspension dated November 29, 2011, Richard B. O'Connell, Assistant Port Director, Trade Operations, JFK Airport, proposed to suspend plaintiff for two (2) calendar days as a result of the incident that allegedly occurred on July 25, 2011. Plaintiff was accused of "Failure to Follow Supervisory Instructions," "Absence Without Leave," and "Unprofessional Conduct."

97. On November 28, 2011, plaintiff's supervisor, Frank Siniscalchi, Supervisory Firearms Instructor, advised plaintiff that DC Youngs was requesting a written statement concerning plaintiff's overtime assignment on November 25, 2011. Moreover, specifically, Supervisor Siniscalchi requested that plaintiff explain why he allegedly refused a Medical Facility overtime assignment on November 25, 2011; why he was unable to drive on the field to the assignment; why he did not have his stamp and why he refused to retrieve it to go on another overtime assignment.

98. The allegations against plaintiff were false and in bad faith.

99. Plaintiff responded, in a Statement of Explanation dated December 2, 2011, that he could not drive to the Medical Facility because he had never been trained or certified to drive out into the field, a requirement of the Port Authority of NY/NJ and the FAA. Plaintiff also validly explained the circumstances under which he did not have his stamp and why he could not retrieve it in an expeditious manner.

100. In a Notice of Proposed Suspension dated February 22, 2012, John Mirandona, Assistant Port Director, Tactical Operations, JFK Airport, proposed to suspend plaintiff for fourteen (14) calendar days for "Willful and Intentional Refusal to Obey a Proper Order of a Supervisor." This proposal concerned the events that allegedly occurred on November 25, 2011.

101. In a letter of reply to the Notice of Proposed Suspension dated March 1, 2012, plaintiff asserted that he did not willfully and intentionally refuse to obey a proper

order of a supervisor.

Count I

102. Plaintiff alleges that the foregoing actions by defendant and her agents constitute unlawful employment practices because of retaliation and reprisal, in that defendant and her agents discriminated and retaliated against plaintiff, created a hostile work environment, and undertook the complained of actions because he engaged in the aforementioned prior protected activity.

103. By their actions, defendant and her agents treated plaintiff differently from other employees on account of retaliation and reprisal and discriminated against him in compensation, terms, conditions and privileges of employment in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., and appropriate regulations.

104. Defendant and her agents cannot demonstrate any legitimate non-discriminatory reason for the actions complained of herein; nor can their actions be otherwise justified under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. Any alleged non-discriminatory reason is nothing more than a pretext so that defendant and her agents could attempt to mask their actions.

105. By reason of the actions and inactions of defendant and her agents, whereby defendant and her agents engaged in unlawful discriminatory practices based upon reprisal and retaliation, plaintiff has suffered and continues to suffer economic loss;

loss of salary; damage to his career and employment opportunities; suffered and continues to suffer damage to his reputation among his peers; embarrassment and humiliation and was otherwise greatly injured.

106. By reason of the foregoing, plaintiff has become entitled to appropriate monetary relief, legal fees, and any other appropriate relief as a result of the actions of defendant and her agents.

107. Plaintiff has also become entitled to an award of compensatory damages and costs and disbursements in an amount to be determined by a jury at trial with appropriate interest.

Count II

108. Plaintiff alleges that the complained of actions violate Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq., and applicable regulations in that the Agency discriminated against him and created a hostile work environment on the basis of national origin (Hispanic) when it undertook the complained of actions.

109. By their actions, defendant and her agents treated plaintiff differently from other employees on account of his national origin (Hispanic) and discriminated against him in compensation, terms, conditions and privileges of employment in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., and appropriate regulations.

110. Defendant and her agents cannot demonstrate any legitimate non-

discriminatory reason for the actions complained of herein; nor can their actions be otherwise justified under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.. Any alleged non-discriminatory reason is nothing more than a pretext so that defendant and her agents could attempt to mask their actions.

111. By reason of the actions and inactions of defendant and her agents, whereby defendant and her agents engaged in unlawful discriminatory practices based upon national origin (Hispanic), plaintiff has suffered and continues to suffer economic loss; loss of salary; damage to his career and employment opportunities; suffered and continues to suffer damage to his reputation among his peers; embarrassment and humiliation and was otherwise greatly injured.

112. By reason of the foregoing, plaintiff has become entitled to appropriate monetary relief, legal fees, and any other appropriate relief as a result of the actions of defendant and her agents.

113. Plaintiff has also become entitled to an award of compensatory damages and costs and disbursements in an amount to be determined by a jury at trial with appropriate interest.

Count III

114. Plaintiff alleges that the complained of actions violate Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq., and applicable regulations in that the Agency discriminated against him and created a hostile work environment on the

basis of sex/gender (Male) when it undertook the complained of actions.

115. By their actions, defendant and her agents treated plaintiff differently from other employees on account of his sex/gender (Male) and discriminated against him in compensation, terms, conditions and privileges of employment in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., and appropriate regulations.

116. Defendant and her agents cannot demonstrate any legitimate non-discriminatory reason for the actions complained of herein; nor can their actions be otherwise justified under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. Any alleged non-discriminatory reason is nothing more than a pretext so that defendant and her agents could attempt to mask their actions.

117. By reason of the actions and inactions of defendant and her agents, whereby defendant and her agents engaged in unlawful discriminatory practices based upon sex/gender (Male), plaintiff has suffered and continues to suffer economic loss; loss of salary; damage to his career and employment opportunities; suffered and continues to suffer damage to his reputation among his peers; embarrassment and humiliation and was otherwise greatly injured.

118. By reason of the foregoing, plaintiff has become entitled to appropriate monetary relief, legal fees, and any other appropriate relief as a result of the actions of defendant and her agents.

119. Plaintiff has also become entitled to an award of compensatory damages and costs and disbursements in an amount to be determined by a jury at trial with appropriate interest.

Jury Demand

120. Plaintiff herein demands a trial by jury of all issues in this action.

Prayer for Relief

WHEREFORE, plaintiff respectfully requests that judgment be entered, with respect to each count, as follows:

(1) declaratory relief declaring that the acts alleged herein violate plaintiff's statutory rights;

(2) on Count I, a judgment awarding plaintiff compensatory damages, other appropriate damages, attorney's fees, and costs and disbursements in an amount to be determined by a jury at trial with appropriate interest;

(3) on Count II, a judgment awarding plaintiff compensatory damages, other appropriate damages, attorney's fees, and costs and disbursements in an amount to be determined by a jury at trial with appropriate interest;

(4) on Count III, a judgment awarding plaintiff compensatory damages, other appropriate damages, attorney's fees, and costs and disbursements in an amount to be determined by a jury at trial with appropriate interest;

(5) an award of pre-judgment interest on the money awards requested above;

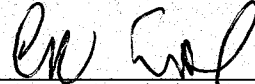
(6) a permanent injunction restraining defendant and her agents and all persons acting in concert with her or on her behalf from continuing to engage in discriminatory activity against plaintiff;

(7) that the Court retain jurisdiction over this action until the defendant and her agents have fully complied with the Orders of this Court and that the Court require the defendant to file such reports as may be necessary to supervise such compliance; and

(8) awarding plaintiff such other and further relief as this Court deems just and proper.

Dated: Jericho, New York
October 16, 2012

WOLIN & WOLIN



By: Alan E. Wolin, Esq.

Attorney for Plaintiff

420 Jericho Turnpike, Suite 215

Jericho, New York 11753

Telephone: (516) 938-1199

Facsimile: (516) 938-1178

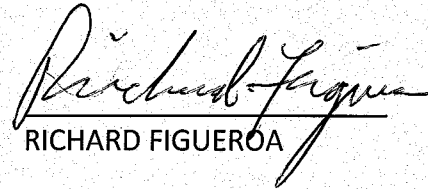
E-Mail: wolinlaw@aol.com

VERIFICATION

State of New York)
)ss.:
County of Nassau)

Richard Figueroa, being duly sworn, deposes and says:

I am the Plaintiff in the within action and I have read the foregoing Amended Verified Complaint and know the contents thereof, the same is true to my knowledge, except as to those matters therein stated to be based upon information and belief, and as to those matters I believe them to be true.


RICHARD FIGUEROA

Sworn to before me this
16th day of October, 2012


Notary Public

JILL A. FIEMAN
Notary Public, State of New York
No. 4993075
Qualified in Nassau County
Commission Expires March 9, 2014

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

RICHARD FIGUEROA,

Plaintiff,

- against -

JANET NAPOLITANO, Secretary,
U.S. Department of Homeland Security,

Defendant.

Civil Action No. 11-2087 cv
(Kuntz, J.) (Levy, MJ)

AFFIDAVIT OF SERVICE

State of New York)
)Ss.:
County of Nassau)

Jill Fieman, being duly sworn, deposes and says:

Deponent is not a party to the action, is over the age of 18 years and is a resident of the State of New York. On the 17th day of October, 2012, deponent served a copy of the within **Amended Verified Complaint**

UPON: Timothy Lynch, Esq.
Assistant U.S. Attorney
Eastern District of New York
271 Cadman Plaza E.
Brooklyn, New York 11201

via electronic mail and by depositing a true copy of same enclosed in a post-paid properly addressed wrapper in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

Sworn to before me this
17th day of October, 2012

Notary Public

JEROLD D. WOLIN
Notary Public, State of New York
No. 4679412
Qualified in Suffolk County
Commission Expires September 30, 2014


Jill Fieman

Exhibit B

In the Matter Of:

RICHARD FIGUEROA vs. JANET NAPOLITANO

Civil Action No. CV-11-2087

RICHARD FIGUEROA

May 14, 2013



1384 Broadway, 19th Floor
New York, NY 10018
212.687.8010

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
9-12

Page 9

1 R. Figueroa
2 with Mr. Wolin this morning to prepare for
3 today's deposition?
4 A. I may have looked over a document or
5 two.
6 Q. Can you tell me which documents you
7 looked at?
8 A. A complaint, an amended complaint.
9 Q. When did you look over the complaint
10 and the amended complaint?
11 A. Earlier this morning when I met with
12 Mr. Wolin.
13 Q. And at the beginning of the
14 deposition, the address that you gave, 36
15 Metropolitan Oval in Bronx, New York, zip code
16 10462, that's your current residential
17 address?
18 A. Yes, it is.
19 Q. For how long have you lived there?
20 A. Oh, approximately 21 years.
21 Q. And do you rent? Do you own the
22 apartment?
23 A. I rent.
24 Q. And who do you live with?
25 A. My wife and my son.

Page 10

1 R. Figueroa
2 Q. And who is your wife?
3 A. My wife's name is Angela Figueroa.
4 Q. And what is your son's name?
5 A. Richard.
6 Q. And how old is Richard?
7 A. 26 at the moment.
8 Q. For the record, how old are you, Mr.
9 Figueroa?
10 A. 54.
11 Q. Were you born in the United States,
12 sir?
13 A. Yes.
14 Q. Which state?
15 A. New York.
16 Q. And I know you were born in the
17 United States, but is there a national origin
18 that you have?
19 A. Well, I'm an American citizen.
20 Q. Right, but do you have a national
21 origin general that you identify with?
22 A. Yes, I'm Hispanic.
23 Q. Now, when you say "Hispanic," is
24 there a particular country from which your
25 parents or grandparents come from?

Page 11

1 R. Figueroa
2 A. Well, I'm of Puerto Rican dissent.
3 Q. You attended high school in the
4 United States; correct?
5 A. Yes, I did.
6 Q. Where did you attend high school?
7 A. Well, I attended two high schools.
8 Q. Which is the one you graduated from?
9 A. Uniondale High School.
10 Q. When did you graduate from Uniondale
11 High School?
12 A. 1977.
13 MR. LYNCH: We can have that marked?
14 (Defendant's Exhibit 1, Answer to
15 interrogatories was so marked for
16 identification.)
17 Q. Mr. Figueroa, I'm showing you what's
18 been marked as Defendant's Exhibit 1.
19 If you can just take a moment to look
20 at it, and I'm just going to ask you a couple
21 of questions.
22 A. Okay.
23 Q. Mr. Figueroa, you've been shown
24 what's been marked as Defendant's Exhibit 1.
25 Do you recognize it?

Page 12

1 R. Figueroa
2 A. Yes, I do.
3 Q. Can you tell me what it is, sir?
4 A. It's a listing of interrogatories.
5 Q. Do you recognize Defendant's
6 Exhibit 1 as your answer to interrogatories
7 that were served upon you?
8 A. Yes, I do.
9 Q. Do you recognize your signature on
10 the page 7 of the interrogatories?
11 A. Yes, I do.
12 Q. And do you recognize your signature
13 on the verification page that's behind that?
14 A. Yes, I do.
15 Q. And prior to signing on the
16 verification page, did you review your answers
17 to the interrogatories and make sure they were
18 accurate before signing?
19 A. Yes.
20 Q. And I just want to direct your
21 attention to your answer to interrogatory
22 number 1.
23 And in your answer to interrogatory
24 number one identifies all the educational
25 institutions, programs or classes that you've

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
13-16

<p style="text-align: right;">Page 13</p> <p>1 R. Figueroa</p> <p>2 attended, dates of attendance, and all</p> <p>3 degrees, credits or certificates received.</p> <p>4 Other than what you've identified in</p> <p>5 your answer to interrogatory number one, are</p> <p>6 there any additional educational institutions,</p> <p>7 programs or classes that you've attended since</p> <p>8 answering that interrogatory?</p> <p>9 A. Yes.</p> <p>10 Q. Can you tell me what those are, sir?</p> <p>11 A. I went to the Federal Law Enforcement</p> <p>12 Training Center in West Virginia.</p> <p>13 Q. When was that?</p> <p>14 A. That was approximately a year ago,</p> <p>15 April of 2012.</p> <p>16 Q. And what did you take -- it's</p> <p>17 commonly referred to as FLETC?</p> <p>18 A. Yes.</p> <p>19 Q. What did you take at FLETC?</p> <p>20 A. I took a firearms officers training</p> <p>21 course to become a certified firearms</p> <p>22 instructor.</p> <p>23 Q. And how long was the course?</p> <p>24 A. Approximately three weeks.</p> <p>25 Q. And did you receive a certificate at</p>	<p style="text-align: right;">Page 15</p> <p>1 R. Figueroa</p> <p>2 MR. LYNCH: Let's have this marked.</p> <p>3 (Defendant's Exhibit 2, Form 612 job</p> <p>4 application was so marked for identification.)</p> <p>5 Q. Mr. Figueroa, I'm showing you what's</p> <p>6 been marked as Defendant's Exhibit 2. I'm</p> <p>7 handing a copy to counsel.</p> <p>8 Just take a moment to review it, let</p> <p>9 me know when you are finished.</p> <p>10 Do you recognize Defendant's</p> <p>11 Exhibit 2?</p> <p>12 A. Yes.</p> <p>13 Q. Can you tell me what it is, sir?</p> <p>14 A. It is an optional form number 612</p> <p>15 that the Federal government uses as a job</p> <p>16 application.</p> <p>17 Q. Do you recognize your signature on</p> <p>18 the third to last page of Defendant's</p> <p>19 Exhibit 2?</p> <p>20 A. Yes.</p> <p>21 Q. And is this Defendant's Exhibit 2 one</p> <p>22 of the applications you submitted to work for</p> <p>23 the Federal government?</p> <p>24 A. I believe it was, yes. I believe it</p> <p>25 is, yes.</p>
<p style="text-align: right;">Page 14</p> <p>1 R. Figueroa</p> <p>2 the end of the course?</p> <p>3 A. Yes, I did.</p> <p>4 Q. Is there an official title for the</p> <p>5 certificate that you received?</p> <p>6 A. Well, it's certifying me as a</p> <p>7 firearms instructor for Customs and Border</p> <p>8 Protection.</p> <p>9 Q. Any additional certificate, programs</p> <p>10 or classes you've taken since the one at FLETC</p> <p>11 back in April of 2012?</p> <p>12 A. None that I can think of at the</p> <p>13 moment.</p> <p>14 Q. And you work for the Federal</p> <p>15 government; correct, Mr. Figueroa?</p> <p>16 A. Yes.</p> <p>17 Q. And when did you first begin working</p> <p>18 for the Federal government?</p> <p>19 A. July 9, 2001.</p> <p>20 Q. And which agency did you begin</p> <p>21 working for?</p> <p>22 A. For the United States Customs</p> <p>23 Service.</p> <p>24 Q. And what position were you hired as?</p> <p>25 A. As an inspector.</p>	<p style="text-align: right;">Page 16</p> <p>1 R. Figueroa</p> <p>2 Q. Can you tell me what were your duties</p> <p>3 and responsibilities basically as a customs</p> <p>4 inspector?</p> <p>5 A. Well, we inspected internationally</p> <p>6 arrived passengers and their possessions for</p> <p>7 unlawful merchandise that may be brought into</p> <p>8 the United States.</p> <p>9 Q. And when you first began working as a</p> <p>10 customs inspector, was there a facility with</p> <p>11 which you were assigned?</p> <p>12 A. Yes.</p> <p>13 Q. And where was that?</p> <p>14 A. Atlanta, Georgia.</p> <p>15 Q. For how long of a period were you</p> <p>16 assigned to work in Atlanta, Georgia?</p> <p>17 A. I was assigned with training and --</p> <p>18 because training was in Georgia as well. With</p> <p>19 training and my work at the airport, it was</p> <p>20 all total approximately a year.</p> <p>21 Q. And which was the next facility that</p> <p>22 you were assigned to?</p> <p>23 A. JFK International Airport.</p> <p>24 Q. And when were you assigned to work at</p> <p>25 JFK International Airport?</p>

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
17-20

<p style="text-align: right;">Page 17</p> <p>1 R. Figueroa</p> <p>2 A. Around August of 2002.</p> <p>3 Q. And are you presently assigned to JFK</p> <p>4 International Airport?</p> <p>5 A. Yes, I am.</p> <p>6 Q. Can you tell me briefly prior to</p> <p>7 working as a custom inspector, what did you</p> <p>8 do, sir?</p> <p>9 A. I was with the New York City Police</p> <p>10 Department.</p> <p>11 Q. For how long of a period did you work</p> <p>12 for the New York City Police Department?</p> <p>13 A. Approximately 20 years.</p> <p>14 Q. And I'll refer to the New York City</p> <p>15 Police Department as NYPD.</p> <p>16 What was the last position you held</p> <p>17 with the NYPD before coming over as a customs</p> <p>18 inspector?</p> <p>19 A. I was a sergeant.</p> <p>20 Q. Can you tell me, did there come a</p> <p>21 time in which the agency that you worked for,</p> <p>22 U.S. Customs Agency was merged into a new</p> <p>23 Federal agency?</p> <p>24 A. Yes.</p> <p>25 Q. What agency is that?</p>	<p style="text-align: right;">Page 19</p> <p>1 R. Figueroa</p> <p>2 Officer as a CBPO occasionally; okay?</p> <p>3 A. Yes.</p> <p>4 Q. Can you tell me, after your position</p> <p>5 was converted to Custom and Border Protection</p> <p>6 Officer, did your duties and responsibilities</p> <p>7 change in any way from that of a customs</p> <p>8 inspector?</p> <p>9 A. Well, it did, because now not only</p> <p>10 are we still looking for unlawful merchandise</p> <p>11 being brought into the country, we are</p> <p>12 concentrating heavily on terrorism.</p> <p>13 Q. Can you tell me briefly as a CBPO</p> <p>14 officer, in terms of your duties and</p> <p>15 responsibilities now, concentrating more now</p> <p>16 on terrorism, briefly what does that entail?</p> <p>17 A. Well, we look at passengers and their</p> <p>18 previous history with regard to travel, and if</p> <p>19 passengers are selected for intense</p> <p>20 inspection, we perform that inspection.</p> <p>21 Q. Since your position was converted to</p> <p>22 that of a CBPO officer, can you tell me have</p> <p>23 you held any other positions with Customs and</p> <p>24 Border Protection?</p> <p>25 A. In rank structure, no.</p>
<p style="text-align: right;">Page 18</p> <p>1 R. Figueroa</p> <p>2 A. It became the newly created Customs</p> <p>3 and Border Protection Agency.</p> <p>4 Q. And do you recall when that was?</p> <p>5 A. Approximately 2003.</p> <p>6 Q. And I'll on occasion refer to Customs</p> <p>7 and Border Protection as CBP.</p> <p>8 A. Yes.</p> <p>9 Q. Can you tell me what Federal</p> <p>10 department is CBP a part of?</p> <p>11 A. The Department of Homeland Security.</p> <p>12 Q. And occasionally, I'll refer to</p> <p>13 Department of Homeland Security as DHS.</p> <p>14 A. Yes.</p> <p>15 Q. Can you tell me, as part of that</p> <p>16 merger, did your position as a customs</p> <p>17 inspector change?</p> <p>18 A. Yes, we were no longer customs</p> <p>19 inspectors, we became Customs and Border</p> <p>20 Protection Officers.</p> <p>21 Q. When was your position converted, so</p> <p>22 to speak?</p> <p>23 A. In 2003 sometime.</p> <p>24 Q. Okay. On occasion, I'll refer to the</p> <p>25 position U.S. Customs Border Protection</p>	<p style="text-align: right;">Page 20</p> <p>1 R. Figueroa</p> <p>2 Q. Can you tell me, what's your present</p> <p>3 salary as a CBPO officer?</p> <p>4 A. \$85,343.</p> <p>5 Q. And you receive health insurance as</p> <p>6 part of your compensation?</p> <p>7 A. No.</p> <p>8 Q. Do you have health insurance?</p> <p>9 A. Yes.</p> <p>10 Q. Who do you have health insurance</p> <p>11 through?</p> <p>12 A. That was part of my retirement</p> <p>13 package from The City of New York.</p> <p>14 Q. With the position of CBP officer,</p> <p>15 were you offered health insurance?</p> <p>16 A. Yes.</p> <p>17 Q. But you elected to keep the insurance</p> <p>18 that you had as part of your retirement</p> <p>19 package with the NYPD?</p> <p>20 A. Yes.</p> <p>21 Q. And who is your insurer?</p> <p>22 A. GHI, The Group Health Insurance</p> <p>23 Corporation.</p> <p>24 Q. As part of your GHI health insurance,</p> <p>25 are mental health insurance benefits included?</p>

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
21-24

<p style="text-align: right;">Page 21</p> <p>1 R. Figueroa</p> <p>2 A. They may be.</p> <p>3 Q. Have you ever utilized mental health</p> <p>4 insurance benefits?</p> <p>5 A. No.</p> <p>6 Q. Do you have dental insurance?</p> <p>7 A. Yes.</p> <p>8 Q. Is that through CBPO?</p> <p>9 A. No.</p> <p>10 Q. Is that part of your retirement</p> <p>11 package with the NYPD?</p> <p>12 A. Yes.</p> <p>13 Q. And in terms of other benefits with</p> <p>14 Customs and Border Protection, what is your</p> <p>15 annual leave?</p> <p>16 A. My annual leave is approximately</p> <p>17 19 days a year.</p> <p>18 Q. What about sick leave, are you</p> <p>19 afforded sick leave through CBP?</p> <p>20 A. Yes, that's approximately 12 days a</p> <p>21 year.</p> <p>22 Q. And I know you have retirement</p> <p>23 benefits through the NYPD, but are you offered</p> <p>24 or do you have retirement benefits through</p> <p>25 CBP?</p>	<p style="text-align: right;">Page 23</p> <p>1 R. Figueroa</p> <p>2 A. No.</p> <p>3 Q. What about any representative</p> <p>4 positions?</p> <p>5 A. No.</p> <p>6 Q. All right. So I want to talk a</p> <p>7 little bit about since you've worked for CBP</p> <p>8 what your assignments have been up to the</p> <p>9 present; okay?</p> <p>10 A. Okay.</p> <p>11 Q. Now, can you tell me when you first</p> <p>12 began working at JFK Airport, can you tell me</p> <p>13 which branch of CPB were you assigned?</p> <p>14 A. The baggage branch, also known as</p> <p>15 passenger processing.</p> <p>16 Q. For how long of a period did you work</p> <p>17 in passenger processing?</p> <p>18 A. I would say approximately maybe</p> <p>19 five years.</p> <p>20 Q. So approximately until what year?</p> <p>21 A. Around 2005, maybe 2006.</p> <p>22 Q. Okay. I'm just going to refer back</p> <p>23 to Defendant's Exhibit 1, your answer to</p> <p>24 interrogatories. And specifically I'll refer</p> <p>25 to the second page in your answer to</p>
<p style="text-align: right;">Page 22</p> <p>1 R. Figueroa</p> <p>2 A. Yes.</p> <p>3 Q. What are those retirement benefits?</p> <p>4 A. That's difficult to explain because</p> <p>5 it's multi layered.</p> <p>6 Q. Briefly, as best you can explain what</p> <p>7 it is. If it's like, for example, a pension?</p> <p>8 A. Well, we receive a pension and a TSP</p> <p>9 annuity account, in addition to social</p> <p>10 security.</p> <p>11 Q. When you refer to TSP annuity</p> <p>12 account, that's a thrift savings plan annuity</p> <p>13 account?</p> <p>14 A. Yes.</p> <p>15 Q. And as a CBP officer, are you a</p> <p>16 member of any union?</p> <p>17 A. Yes, The National Treasury Employees</p> <p>18 Union, the NTEU.</p> <p>19 Q. And how long have you been a member</p> <p>20 of NTEU?</p> <p>21 A. Since beginning with Customs.</p> <p>22 Q. So since 2001?</p> <p>23 A. Yes, since 2001.</p> <p>24 Q. Have you held any officer type</p> <p>25 positions with the union?</p>	<p style="text-align: right;">Page 24</p> <p>1 R. Figueroa</p> <p>2 interrogatory number 2 where you indicate</p> <p>3 different branches of the agency you worked</p> <p>4 with.</p> <p>5 And at the top of the paragraph in</p> <p>6 part of your answer, you indicate "I worked in</p> <p>7 passenger processing baggage until</p> <p>8 approximately 2006."</p> <p>9 Does that refresh your recollection</p> <p>10 if it was in about 2006 in which you worked in</p> <p>11 passenger processing?</p> <p>12 A. Correct, yes, that would be</p> <p>13 approximately five years.</p> <p>14 Q. Can you tell me what were your basic</p> <p>15 duties and responsibilities when you were</p> <p>16 assigned to work passenger processing until</p> <p>17 about approximately 2006?</p> <p>18 A. Well, in passenger processing we</p> <p>19 inspected passengers and their possessions for</p> <p>20 unlawful merchandise and any articles related</p> <p>21 to terrorism.</p> <p>22 Q. Can you tell me from 2001 to 2006</p> <p>23 while assigned to work in passenger</p> <p>24 processing, who were your supervisors?</p> <p>25 A. From 2001?</p>

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
29-32

Page 29

1 R. Figueroa
2 Q. What about your co-workers when you
3 worked in passenger processing, just from 2001
4 to 2006, any that you can recall?
5 A. Of people that I have worked with?
6 Q. Yes, that are your co-workers in
7 passenger processing from 2001 up to 2006?
8 A. Yes, I definitely can recall a few.
9 Q. Okay, can you tell me who you recall
10 working with?
11 A. Let's see, I worked with a fellow
12 named Robert Miller. Another fellow named
13 Theo Servetas.
14 Q. Okay.
15 A. I'm trying to think, there have been
16 so many over the years. Louis Florio.
17 Q. Anyone else you can recall, just from
18 when you were working in passenger processing?
19 A. Well, there is a myriad of people.
20 Q. I'm sure, just as best you can
21 recall. I understand you may not remember
22 everyone, it's only as best you can recall?
23 A. Yes, for the moment that's about it.
24 I'm sure later on I can think of a few others.
25 Q. Okay. Mr. Robert Miller, is it fair

Page 30

1 R. Figueroa
2 to say he is a man?
3 A. Yes.
4 Q. What is his race?
5 A. Male white.
6 Q. What was Mr. Miller's national
7 origin?
8 A. I don't know.
9 Q. What about Theo Servetas?
10 A. Yes, another male white.
11 Q. What about Mr. Servetas' national
12 origin?
13 A. I don't know.
14 Q. Louis Florio, is he a male?
15 A. Yes.
16 Q. Race?
17 A. Male white.
18 Q. And national origin?
19 A. I don't know.
20 Q. So can you just tell me in terms of
21 how would you describe the work atmosphere
22 when you were working in passenger processing,
23 just from 2001 up to 2006, how would you
24 describe it?
25 MR. WOLIN: Objection.

Page 31

1 R. Figueroa
2 You can answer it.
3 THE WITNESS: I don't understand the
4 question.
5 Q. Well, would you describe it as a
6 friendly work atmosphere? Business-like?
7 Professional? Intense atmosphere, just to
8 give you an example.
9 A. It was a business-like atmosphere.
10 Q. Did you enjoy working in passenger
11 processing from 2001 to 2006?
12 A. Yes.
13 Q. Can you tell me, what did you enjoy
14 working in passenger processing, from 2001 to
15 2006, what did you enjoy about it?
16 A. Well, it was interesting.
17 Q. What made it interesting?
18 A. You never know when the next person
19 who comes along may be the one carrying
20 unlawful merchandise.
21 Q. Okay. Can you tell me in 2006 which
22 branch at JFK were you assigned to?
23 A. The mail branch.
24 Q. And for how long of a period were you
25 assigned to the mail branch?

Page 32

1 R. Figueroa
2 A. Approximately two years.
3 Q. So that would take us to about 2008?
4 A. Yes.
5 Q. And can you tell me when you were
6 assigned to the mail branch, what were your
7 basic duties and responsibilities when you
8 were assigned to work the mail branch?
9 A. To inspect internationally arrived
10 mail for unlawful merchandise and articles of
11 terrorism.
12 Q. And can you tell me from 2006 to 2008
13 while you were assigned to the mail branch who
14 were your supervisors during that time period?
15 A. Armand Mitnick, Benjamin Sciacca and
16 Kompel Sachdeva.
17 Q. And what about co-workers, did you
18 have any different co-workers when you were
19 assigned to work the mail branch from 2006 to
20 2008?
21 A. Yes.
22 Q. Who were they?
23 A. Joseph Laviano.
24 Q. How do you spell that last name, as
25 best you can?

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
33-36

<p style="text-align: right;">Page 33</p> <p>1 R. Figueroa</p> <p>2 A. L-A-V-I-A-N-O. Joseph Sweeney.</p> <p>3 Joseph Ianerrelli.</p> <p>4 Q. How do you spell that as best you</p> <p>5 can?</p> <p>6 A. I-A-N-E-R-R-E-L-L-I.</p> <p>7 Q. Any other co-workers you can recall</p> <p>8 when you were assigned to the mail branch from</p> <p>9 2006 to 2008?</p> <p>10 A. Yes, but I can't think of her name</p> <p>11 right now.</p> <p>12 Q. Okay.</p> <p>13 A. Helen Ashton.</p> <p>14 Q. Helen Ashton?</p> <p>15 A. Ashton.</p> <p>16 Q. And Mr. Joseph Laviano, what's his</p> <p>17 race?</p> <p>18 A. Male white.</p> <p>19 Q. And do you know Mr. Laviano's</p> <p>20 national origin?</p> <p>21 A. No.</p> <p>22 Q. And with regard to Mr. Sweeney, is it</p> <p>23 fair to say he is a male?</p> <p>24 A. Yes.</p> <p>25 Q. What about Mr. Sweeney's race?</p>	<p style="text-align: right;">Page 35</p> <p>1 R. Figueroa</p> <p>2 MR. WOLIN: One thing we are all in</p> <p>3 agreement with is we don't want you to assume.</p> <p>4 MR. LYNCH: Right, and you know when</p> <p>5 I'm referring to national origin that, for</p> <p>6 example, even though they could be citizens,</p> <p>7 if you identify with coming from the Caribbean</p> <p>8 Jamaica, Italian.</p> <p>9 THE WITNESS: I don't know.</p> <p>10 Q. Okay. Can you tell me when you were</p> <p>11 assigned to work the mail branch from 2006 to</p> <p>12 2008, how would you describe the work</p> <p>13 atmosphere there?</p> <p>14 A. It was business-like.</p> <p>15 Q. Did you enjoy working in the mail</p> <p>16 branch from 2006 to 2008?</p> <p>17 A. Yes.</p> <p>18 Q. What did you enjoy about working in</p> <p>19 the mail branch during that time period?</p> <p>20 A. Same thing, looking for unlawful</p> <p>21 merchandise and articles of terrorism.</p> <p>22 Q. So you enjoyed what you did in the</p> <p>23 mail branch?</p> <p>24 A. Yes.</p> <p>25 Q. Can you tell me in 2008 which branch</p>
<p style="text-align: right;">Page 34</p> <p>1 R. Figueroa</p> <p>2 A. He is a male white.</p> <p>3 Q. What about his national origin?</p> <p>4 A. I don't know.</p> <p>5 Q. With respect to Joseph Ianerrelli, is</p> <p>6 it fair to say he was a male?</p> <p>7 A. Yes.</p> <p>8 Q. What about his race?</p> <p>9 A. I don't know.</p> <p>10 Q. What about Mr. Ianerrelli's national</p> <p>11 origin?</p> <p>12 A. Oh, his race is he is a male white.</p> <p>13 His national origin, I don't know.</p> <p>14 Q. Helen Ashton, is it fair to say she</p> <p>15 was a female?</p> <p>16 A. Yes.</p> <p>17 Q. What about Ms. Ashton's race?</p> <p>18 A. She is an African-American female.</p> <p>19 Q. Do you know Ms. Ashton, if she has a</p> <p>20 national origin?</p> <p>21 A. I'm assuming they are all U.S.</p> <p>22 citizens.</p> <p>23 MR. WOLIN: But we don't want you to</p> <p>24 assume.</p> <p>25 MR. LYNCH: Right.</p>	<p style="text-align: right;">Page 36</p> <p>1 R. Figueroa</p> <p>2 of CBP were you assigned to next while working</p> <p>3 at the JFK Airport?</p> <p>4 A. The cargo facility.</p> <p>5 Q. And for how long of a period were you</p> <p>6 assigned to the cargo facility?</p> <p>7 A. Approximately 10 months.</p> <p>8 Q. Do you recall the month in 2008 in</p> <p>9 which you were assigned to the cargo facility?</p> <p>10 A. I believe it may have been April, but</p> <p>11 I'm not sure.</p> <p>12 Q. All right. So I just want to refer</p> <p>13 you back on the second page, your answer to</p> <p>14 interrogatory number 2, which is also marked</p> <p>15 Defendant's Exhibit 2.</p> <p>16 It indicates on the third sentence in</p> <p>17 your answer, "After the mail branch I was</p> <p>18 assigned to work in the cargo facility in or</p> <p>19 about April of 2008."</p> <p>20 Does that refresh your recollection</p> <p>21 if it was in about April of 2008 that you were</p> <p>22 assigned to the cargo facility?</p> <p>23 A. That would be correct, approximately</p> <p>24 April of 2008.</p> <p>25 Q. Okay. Can you tell me when you were</p>

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
37-40

<p style="text-align: right;">Page 37</p> <p>1 R. Figueroa</p> <p>2 assigned to the cargo facility, what were your</p> <p>3 duties and responsibilities?</p> <p>4 A. To look for unlawful merchandise and</p> <p>5 articles of terrorism.</p> <p>6 Q. But in terms of what you were doing</p> <p>7 in the cargo facility, did it differ from when</p> <p>8 you were assigned to the mail branch in terms</p> <p>9 of what your actual duties were?</p> <p>10 A. Yes, because now we are looking at</p> <p>11 international mail.</p> <p>12 Q. Okay. When you were assigned to the</p> <p>13 mail branch, you weren't looking at</p> <p>14 international mail?</p> <p>15 A. I'm sorry, sir. I thought you were</p> <p>16 asking me about the mail branch.</p> <p>17 You were asking me about the cargo</p> <p>18 facility; did you say?</p> <p>19 Q. Correct.</p> <p>20 A. Okay. In the cargo facility, now we</p> <p>21 are looking at internationally arrived cargo</p> <p>22 for the same objective.</p> <p>23 I thought you were repeating my</p> <p>24 duties for the mail branch.</p> <p>25 Q. No, no, we are going from, you know,</p>	<p style="text-align: right;">Page 39</p> <p>1 R. Figueroa</p> <p>2 Q. How do you spell Mr. Contorno's last</p> <p>3 name?</p> <p>4 A. C-O-N-T-O-R-N-O.</p> <p>5 Q. Any other supervisors you can recall?</p> <p>6 A. Yes, but let's see, I have to think</p> <p>7 of their names. There was a fellow who just</p> <p>8 retired, I worked with him as well but I can't</p> <p>9 recall his name.</p> <p>10 Q. Okay. So Joseph Smith, is it fair to</p> <p>11 say he is a male?</p> <p>12 A. Yes.</p> <p>13 Q. What about Mr. Smith's race?</p> <p>14 A. He is a male white.</p> <p>15 Q. What about Mr. Smith's national</p> <p>16 origin?</p> <p>17 A. I don't know.</p> <p>18 Q. With regard to Mr. Anthony Contorno,</p> <p>19 is it fair to say he is a male?</p> <p>20 A. Yes.</p> <p>21 Q. What about Mr. Contorno's race?</p> <p>22 A. He is a male white.</p> <p>23 Q. Okay, what about Mr. Contorno's</p> <p>24 national origin; do you know?</p> <p>25 A. I don't know.</p>
<p style="text-align: right;">Page 38</p> <p>1 R. Figueroa</p> <p>2 each facility that -- each branch, you know, I</p> <p>3 just want to know, you know, from each time</p> <p>4 you are assigned to a new branch how your</p> <p>5 duties may have differed.</p> <p>6 So in the cargo facility you are</p> <p>7 looking at internationally arrived cargo?</p> <p>8 A. Yes.</p> <p>9 Q. And how would you do that when you</p> <p>10 were assigned to work in the cargo facility?</p> <p>11 A. Well, we would scan paperwork for</p> <p>12 irregularities, computer entries for the same.</p> <p>13 And we would then physically inspect, open up</p> <p>14 cargo shipments and examine them.</p> <p>15 Q. Anything else that you did when you</p> <p>16 were assigned to work the cargo facility back</p> <p>17 in 2008?</p> <p>18 A. Such as?</p> <p>19 Q. Any other that you can recall your</p> <p>20 duties and responsibilities?</p> <p>21 A. No, that pretty much sums it up.</p> <p>22 Q. Okay. And can you tell me in the</p> <p>23 10 months that you were assigned to work for</p> <p>24 the cargo facility, who were your supervisors?</p> <p>25 A. Joseph Smith, Anthony Contorno.</p>	<p style="text-align: right;">Page 40</p> <p>1 R. Figueroa</p> <p>2 Q. What about your co-workers, when you</p> <p>3 were assigned to work the cargo facility in</p> <p>4 2008, who were your co-workers that you can</p> <p>5 recall working with?</p> <p>6 A. Let's see, Charlie Borowski, Fred</p> <p>7 Signer, Joseph Iparra, John Taylor and John</p> <p>8 Tutone.</p> <p>9 Q. Mr. Charlie Borowski, is it fair to</p> <p>10 say he was a male?</p> <p>11 A. Yes.</p> <p>12 Q. What was Mr. Borowski's race?</p> <p>13 A. He is a male white.</p> <p>14 Q. What is Mr. Borowski's national</p> <p>15 origin?</p> <p>16 A. I don't know.</p> <p>17 Q. Fred Signer, is it fair to say he is</p> <p>18 a male?</p> <p>19 A. Yes.</p> <p>20 Q. What is Mr. Signer's race?</p> <p>21 A. He is a male white.</p> <p>22 Q. And what's Mr. Signer's national</p> <p>23 origin?</p> <p>24 A. I don't know.</p> <p>25 Q. Joseph Iparra, is it fair to say he</p>

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
41-44

Page 41	Page 43
<p>1 R. Figueroa</p> <p>2 is male?</p> <p>3 A. Yes.</p> <p>4 Q. What about Mr. Imparra's race?</p> <p>5 A. He is a male white.</p> <p>6 Q. Do you know Mr. Imparra's national</p> <p>7 origin?</p> <p>8 A. No.</p> <p>9 Q. John Taylor, is it fair to say he was</p> <p>10 a male?</p> <p>11 A. Yes.</p> <p>12 Q. What's Mr. Taylor's race?</p> <p>13 A. He is a male white.</p> <p>14 Q. And what about Mr. Taylor's national</p> <p>15 origin, do you know?</p> <p>16 A. I don't know.</p> <p>17 Q. John Tutone, is it fair to say he is</p> <p>18 a male?</p> <p>19 A. Yes.</p> <p>20 Q. What about Mr. Tutone's race?</p> <p>21 A. He is a male white.</p> <p>22 Q. What about Mr. Tutone's national</p> <p>23 origin?</p> <p>24 A. I don't know.</p> <p>25 Q. How would you describe the work</p>	<p>1 R. Figueroa</p> <p>2 the second page in your answer to</p> <p>3 interrogatory number 2, and just on the top</p> <p>4 paragraph, the second to last sentence it says</p> <p>5 "I was then reassigned to passenger processing</p> <p>6 in or about February of 2009."</p> <p>7 A. Okay.</p> <p>8 Q. Does that refresh your recollection</p> <p>9 if it was in February of 2009?</p> <p>10 A. Then it would be February of 2009.</p> <p>11 Q. Okay.</p> <p>12 A. Yes.</p> <p>13 Q. Now, can you tell me when you</p> <p>14 returned to passenger processing back in</p> <p>15 February of 2009, did your duties and</p> <p>16 responsibilities change in any way from the</p> <p>17 last time you were assigned to work there?</p> <p>18 A. Repeat that question, please?</p> <p>19 MR. LYNCH: Can you read it back?</p> <p>20 (Question read.)</p> <p>21 A. No, I was back doing passenger</p> <p>22 processing duties.</p> <p>23 Q. Did you have the same supervisors?</p> <p>24 A. No, they were different supervisors.</p> <p>25 Q. Okay. And who are the supervisors in</p>
Page 42	Page 44
<p>1 R. Figueroa</p> <p>2 atmosphere when you were assigned to work the</p> <p>3 cargo facility back in 2008?</p> <p>4 A. Business-like, professional.</p> <p>5 Q. Did you enjoy working in the cargo</p> <p>6 facility during that time period?</p> <p>7 A. Yes.</p> <p>8 Q. Can you tell me what did you enjoy</p> <p>9 about working in the cargo facility back then?</p> <p>10 A. Pretty much the same thing, looking</p> <p>11 for the unlawful shipments.</p> <p>12 Q. You mentioned you were assigned to</p> <p>13 the cargo facility back in 2008 for about</p> <p>14 10 months. So that takes us to approximately</p> <p>15 2009?</p> <p>16 A. Yes.</p> <p>17 Q. Which branch of CBP at the JFK</p> <p>18 facility were you assigned to next in 2009?</p> <p>19 A. I was sent back to passenger</p> <p>20 processing.</p> <p>21 Q. And do you recall when in 2009 you</p> <p>22 were sent back to passenger processing?</p> <p>23 A. Approximately October.</p> <p>24 Q. Why don't you hold onto that and</p> <p>25 refer back to Defendant's Exhibit 2, and on</p>	<p>1 R. Figueroa</p> <p>2 2009 when you were reassigned back to</p> <p>3 passenger processing?</p> <p>4 A. I can't remember who they were.</p> <p>5 Q. Okay. What about co-workers, did you</p> <p>6 have the same co-workers when you were</p> <p>7 reassigned back to passenger processing?</p> <p>8 A. Some were the same, some were</p> <p>9 different.</p> <p>10 Q. Who were the different co-workers?</p> <p>11 A. I can't recall.</p> <p>12 Q. Can you tell me how would you</p> <p>13 describe the work atmosphere when you were</p> <p>14 reassigned back to work in passenger</p> <p>15 processing in February of 2009?</p> <p>16 A. Generally business-like.</p> <p>17 Q. And when you returned to work back in</p> <p>18 passenger processing, did you enjoy working in</p> <p>19 passenger processing during that time period?</p> <p>20 A. No, I wanted to stay back in cargo.</p> <p>21 Q. Why did you want to stay back in</p> <p>22 cargo?</p> <p>23 A. Because I enjoyed what I was doing in</p> <p>24 cargo.</p> <p>25 Q. Can you tell me what about working in</p>

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
45-48

<p style="text-align: right;">Page 45</p> <p>1 R. Figueroa</p> <p>2 cargo made it more enjoyable than working in</p> <p>3 passenger processing?</p> <p>4 A. Well, you got more adept the longer</p> <p>5 you were there in cargo procedures and</p> <p>6 facilities, and in the way the facility</p> <p>7 operated, so you became better at spotting</p> <p>8 shipments that you can target.</p> <p>9 Q. Was there a reason that you wanted to</p> <p>10 become more adept at doing what you were doing</p> <p>11 in cargo processing?</p> <p>12 A. Well, you always want to get better</p> <p>13 at your job and utilize your skills to your</p> <p>14 utmost.</p> <p>15 Q. So is it fair to say you felt back in</p> <p>16 2009 your skills could be utilized better in</p> <p>17 cargo than in passenger processing?</p> <p>18 MR. WOLIN: Objection.</p> <p>19 You can answer it.</p> <p>20 A. Yes. Well, I'm going to do my best</p> <p>21 wherever I'm assigned, but you asked me</p> <p>22 earlier if I enjoyed that better. Yes, I did.</p> <p>23 Q. All right. I'll take that back.</p> <p>24 And for how long of a period were you</p> <p>25 reassigned back to passenger processing?</p>	<p style="text-align: right;">Page 47</p> <p>1 R. Figueroa</p> <p>2 Q. For how long of a period were you</p> <p>3 assigned to the cargo facility after going</p> <p>4 back there in October of 2009?</p> <p>5 A. I would say approximately, maybe a</p> <p>6 year.</p> <p>7 Q. So that takes us to sometime in 2010?</p> <p>8 A. Yes.</p> <p>9 Q. So where in 2010 were you assigned</p> <p>10 next?</p> <p>11 A. I don't remember.</p> <p>12 Q. Why don't you tell me where you are</p> <p>13 currently assigned?</p> <p>14 A. To the firearms unit.</p> <p>15 Q. And for how long of a period have you</p> <p>16 been assigned to the firearms unit?</p> <p>17 A. Approximately a year now.</p> <p>18 Q. And when specifically were you</p> <p>19 assigned to the firearms unit?</p> <p>20 A. It was October of 2012, excuse me.</p> <p>21 Q. Approximately eight months?</p> <p>22 A. Excuse me, hold on let me think.</p> <p>23 Q. Sure.</p> <p>24 A. Maybe October of 2011.</p> <p>25 Q. So since --</p>
<p style="text-align: right;">Page 46</p> <p>1 R. Figueroa</p> <p>2 A. At this stage of -- at this moment in</p> <p>3 time, I was shifted back and forth a lot.</p> <p>4 Q. Can you tell me which was the next</p> <p>5 branch you were assigned after passenger</p> <p>6 processing?</p> <p>7 A. I believe I went back to the cargo</p> <p>8 facility.</p> <p>9 Q. When did you return to the cargo</p> <p>10 facility?</p> <p>11 A. Approximately October of that year.</p> <p>12 Q. So it was in approximately October of</p> <p>13 2009 that you returned back to the cargo</p> <p>14 facility?</p> <p>15 A. Yes.</p> <p>16 Q. When you returned to the cargo</p> <p>17 facility, did you have the same supervisors as</p> <p>18 from when you were there before?</p> <p>19 A. Yes.</p> <p>20 Q. What about co-workers?</p> <p>21 A. The same.</p> <p>22 Q. And when you returned to the cargo</p> <p>23 facility, did your duties and responsibilities</p> <p>24 change from when you were there before?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 48</p> <p>1 R. Figueroa</p> <p>2 A. Yes, October of 2011.</p> <p>3 Q. So since October of 2011, you've been</p> <p>4 assigned to the firearms unit?</p> <p>5 A. Yes.</p> <p>6 Q. And can you tell me what are your</p> <p>7 basic duties and responsibilities in the</p> <p>8 firearms unit at JFK?</p> <p>9 A. To oversee the progress and skill</p> <p>10 level of the shooters, the officers who carry</p> <p>11 weapons at JFK Airport.</p> <p>12 Q. How do you do that?</p> <p>13 A. We qualify them in a qualification</p> <p>14 cycle, which is a firearms qualification</p> <p>15 exercise that we put officers through to</p> <p>16 assure that they are able to maintain firearms</p> <p>17 proficiency.</p> <p>18 Q. Any other duties and responsibilities</p> <p>19 in terms of while you were assigned to the</p> <p>20 firearms unit?</p> <p>21 A. Well, we may have to remove officer's</p> <p>22 weapons for failure to qualify.</p> <p>23 We may have to pickup officer's</p> <p>24 weapons whose authority to carry that weapon</p> <p>25 has been suspended. And we keep an inventory</p>

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
53-56

<p style="text-align: right;">Page 53</p> <p>1 R. Figueroa</p> <p>2 think at this moment in time that she was my</p> <p>3 supervisor just a short period, but I cannot</p> <p>4 tell you exactly what the dates are, the time</p> <p>5 parameters are.</p> <p>6 Q. Okay, but she was your supervisor you</p> <p>7 recall prior to the incident itself?</p> <p>8 A. Yes.</p> <p>9 Q. So why don't you tell me prior to the</p> <p>10 December 29, 2007 incident, how would you</p> <p>11 describe your relationship with Ms. Sachdeva?</p> <p>12 A. It was an employer/supervisor</p> <p>13 employee/worker relationship.</p> <p>14 Q. How would you describe it? So we all</p> <p>15 have employer/employee relationships,</p> <p>16 supervisor folks that work under, but how</p> <p>17 would you describe it?</p> <p>18 A. Other than what I just said, I don't</p> <p>19 know exactly what it is that you are asking</p> <p>20 me.</p> <p>21 Q. Okay. Well, for example, did you get</p> <p>22 along? Prior to December 29, 2007, did you</p> <p>23 get along with her?</p> <p>24 A. I still don't understand it, sir.</p> <p>25 Are you asking me did -- were we --</p>	<p style="text-align: right;">Page 55</p> <p>1 R. Figueroa</p> <p>2 Q. Is Ms. Sachdeva taller than you?</p> <p>3 A. No.</p> <p>4 Q. So she is shorter than five foot</p> <p>5 nine?</p> <p>6 A. Yes.</p> <p>7 Q. And how much do you weigh, sir?</p> <p>8 A. How much do I weigh now?</p> <p>9 Q. Well, let me clarify. Back in</p> <p>10 December of 2007, approximately how much did</p> <p>11 you weigh?</p> <p>12 A. I don't know.</p> <p>13 Q. Well, do you know back in December of</p> <p>14 2007 from what you recall, did you weigh more</p> <p>15 than Ms. Sachdeva?</p> <p>16 A. Sir, I can't answer that. I don't</p> <p>17 know what she weighed, so I can't tell you --</p> <p>18 Q. Let me just -- what I always tell</p> <p>19 folks, remember I wasn't there, you lived</p> <p>20 there, so I don't know. So a lot of my</p> <p>21 questions are very specific but they are</p> <p>22 specific, sir, because I wasn't there, I don't</p> <p>23 know what these people look like, I don't know</p> <p>24 what your relationship was and so forth.</p> <p>25 So some of it might seem a little</p>
<p style="text-align: right;">Page 54</p> <p>1 R. Figueroa</p> <p>2 did we ever go out and socialize?</p> <p>3 Q. No. I'm just asking you how would</p> <p>4 you describe the relationship with Ms.</p> <p>5 Sachdeva prior to December 29, 2007 so --</p> <p>6 A. It was professional.</p> <p>7 MR. WOLIN: Objection.</p> <p>8 I think he's already answered it as</p> <p>9 best he can.</p> <p>10 MR. LYNCH: He hasn't, okay.</p> <p>11 THE WITNESS: Professional.</p> <p>12 Q. Well, prior to December 29, 2007, did</p> <p>13 you ever have any disagreements with her?</p> <p>14 A. I don't recall.</p> <p>15 Q. Can you tell me back in December of</p> <p>16 2007, can you describe Ms. Sachdeva's physical</p> <p>17 characteristics? For example, height?</p> <p>18 Weight? Hair color?</p> <p>19 A. I couldn't guess at those.</p> <p>20 Q. Well, from what you recall?</p> <p>21 A. I don't know what her height was. I</p> <p>22 don't know what her weight was, and I believe</p> <p>23 her hair color was dark.</p> <p>24 Q. Well how tall are you, sir?</p> <p>25 A. Five foot nine.</p>	<p style="text-align: right;">Page 56</p> <p>1 R. Figueroa</p> <p>2 irritating, but I need to ask that so I can</p> <p>3 get as best a picture as --</p> <p>4 A. No, it's not that it's irritating</p> <p>5 it's, just open-ended.</p> <p>6 Q. Well, when I ask in terms of your</p> <p>7 weight, we, you know, in terms of how we</p> <p>8 compare weight-wise to someone else as best</p> <p>9 you recall.</p> <p>10 Did she, from what you recall back in</p> <p>11 December of 2007, did she weigh more than you?</p> <p>12 A. Without knowing any factual</p> <p>13 specifics, I would say that I weighed more</p> <p>14 than Ms. Sachdeva.</p> <p>15 Q. When you say "without knowing any</p> <p>16 factual specifics," what do you mean?</p> <p>17 A. I don't know what Ms. Sachdeva's</p> <p>18 weight was, she may have weighed more than me.</p> <p>19 Q. Okay. Now, prior to Ms. Sachdeva</p> <p>20 becoming your supervisor, did the two of you</p> <p>21 work together as co-workers?</p> <p>22 A. Yes, on occasion, briefly.</p> <p>23 Q. When did the two of you begin to work</p> <p>24 together as co-workers?</p> <p>25 A. Oh, I couldn't give you a date, but</p>

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
57-60

<p style="text-align: right;">Page 57</p> <p>1 R. Figueroa</p> <p>2 it was shortly after I arrived at JFK in 2002,</p> <p>3 and it was sporadically, it wasn't anything</p> <p>4 routine or ongoing.</p> <p>5 Q. So it was sometime in 2002 you and</p> <p>6 Ms. Sachdeva began to work together as</p> <p>7 co-workers?</p> <p>8 A. Well, let me clarify that a little</p> <p>9 bit more. We worked at the same place at the</p> <p>10 same time. We never worked shoulder to</p> <p>11 shoulder. We never were assigned to the same</p> <p>12 assignment, you know, we were at the same</p> <p>13 place at the same time, maybe the same</p> <p>14 terminal working during the same hours, but we</p> <p>15 never shared duties.</p> <p>16 Q. Okay.</p> <p>17 A. Or our duties were never incorporated.</p> <p>18 Q. Is it fair to say sometime in 2002 is</p> <p>19 when you first met Ms. Sachdeva?</p> <p>20 A. I would say that, yes.</p> <p>21 Q. And when the two of you were</p> <p>22 co-workers, just focusing before she became</p> <p>23 your supervisor, how did the two of you get</p> <p>24 along?</p> <p>25 A. As well as I got along with anyone</p>	<p style="text-align: right;">Page 59</p> <p>1 R. Figueroa</p> <p>2 Q. And a 4:00 to 12:00 shift, is that</p> <p>3 4:00 p.m. to 12 midnight?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And what time did you report</p> <p>6 to work that day?</p> <p>7 A. At 4:00 p.m.</p> <p>8 Q. And on December 29, 2007, which</p> <p>9 branch did you report to?</p> <p>10 A. The mail branch.</p> <p>11 Q. Okay. Now, on December 29, 2007,</p> <p>12 before the incident with Ms. Sachdeva</p> <p>13 occurred, did you have any interactions with</p> <p>14 her that day before the incident?</p> <p>15 A. I don't recall.</p> <p>16 Q. Can you tell me what were you doing</p> <p>17 immediately before the incident on</p> <p>18 December 29, 2007?</p> <p>19 A. I must have been at my work</p> <p>20 assignment.</p> <p>21 Q. What was your work assignment?</p> <p>22 A. I don't remember.</p> <p>23 Q. Well, was there a building that you</p> <p>24 reported to work back in December of 2007?</p> <p>25 A. Yes, the mail facility.</p>
<p style="text-align: right;">Page 58</p> <p>1 R. Figueroa</p> <p>2 else.</p> <p>3 Q. When you say that, what does that</p> <p>4 mean?</p> <p>5 A. It was a working relationship.</p> <p>6 Q. And when you say it was "a working</p> <p>7 relationship," that means many different</p> <p>8 things to many different people. What do you</p> <p>9 mean when you say that you and Ms. Sachdeva</p> <p>10 had a working relationship when the two of you</p> <p>11 were just co-workers?</p> <p>12 A. We were just co-workers who worked at</p> <p>13 the same place at the same time, nothing more,</p> <p>14 nothing less.</p> <p>15 Q. Did you ever joke around with her</p> <p>16 when the two of you were co-workers?</p> <p>17 A. I don't recall that ever happening.</p> <p>18 Q. So why don't you tell me what time of</p> <p>19 day did the incident between you and Ms.</p> <p>20 Sachdeva occur on December 29th of 2007?</p> <p>21 A. I don't remember.</p> <p>22 Q. Well, can you tell me what shift were</p> <p>23 you assigned to work on December 29th of 2007?</p> <p>24 A. To the best of my recollection, a</p> <p>25 4:00 to 12:00 shift.</p>	<p style="text-align: right;">Page 60</p> <p>1 R. Figueroa</p> <p>2 Q. Where specifically is the mail</p> <p>3 facility at JFK Airport?</p> <p>4 A. You mean the address?</p> <p>5 Q. Focusing on December of 2007, where</p> <p>6 was the mail facility at JFK Airport that you</p> <p>7 reported to work?</p> <p>8 MR. WOLIN: Objection.</p> <p>9 You can answer it.</p> <p>10 A. I'm not exactly sure how to answer</p> <p>11 that. The mail facility is on the grounds of</p> <p>12 JFK Airport.</p> <p>13 Q. Okay, but is there a specific</p> <p>14 building location? Building location number?</p> <p>15 A. There is only one mail facility.</p> <p>16 Q. Okay?</p> <p>17 A. And that's where I reported to. Now,</p> <p>18 it does have a building number I can't recall</p> <p>19 what the building number was, and I definitely</p> <p>20 don't have an address for you, but the</p> <p>21 location has not changed.</p> <p>22 Q. Okay. So back in December of 2007,</p> <p>23 can you describe what the mail facility at JFK</p> <p>24 Airport looked like that you reported to work</p> <p>25 at?</p>

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
65-68

Page 65

1 R. Figueroa
2 to the merge in your respective agency has now
3 been given the title legacy customs or legacy
4 INS.
5 Well, the mail facility were being
6 run by legacy customs people. So if you were
7 a legacy person you'd want to work there
8 because it was with other people from your
9 previous agency and they ran things according
10 to what I was used to.
11 So when I went to the mail branch,
12 the way things were occurring with regard to
13 seniority, holidays and vacations, everything
14 was done according to seniority.
15 My first year at the mail branch, I
16 was told you are the lowest senior member in
17 the entire mail branch command. So,
18 therefore, you are going to have to work
19 Thanksgiving and Christmas because we have a
20 scanner in the back. When mail trucks come
21 into the facility, they have to drive passed a
22 radiation scanner in the event there is
23 anything bad in its cargo, the truck stops and
24 we come out and examine and find the cause of
25 that radiation alarm.

Page 66

1 R. Figueroa
2 So they needed someone to monitor
3 that during the Thanksgiving and Christmas
4 holidays. It was pointed out to me that I was
5 the least senior member working there, and
6 that I would have to pull that duty on both
7 those two holidays, but at that time, that's
8 how things ran, it ran according to seniority,
9 as well as it did the following year.
10 So I checked, I was the least senior
11 individual, and I was there -- as a matter of
12 fact, I showed up early on both those holidays
13 so I can give the fellow who was watching
14 it --
15 Q. Which holidays and years are you
16 referring to?
17 A. Thanksgiving and Christmas.
18 Q. Of which year?
19 A. Of 2006, I believe.
20 Q. Okay.
21 A. So I showed up early to give the
22 fellow a head start in going on with his
23 holiday, no sense in ruining his any further,
24 and I took my position.
25 The following year, I was no longer

Page 67

1 R. Figueroa
2 the least senior man, there were five officers
3 who were junior to me.
4 Q. And who were the five officers that
5 were junior to you?
6 A. Well, the most junior man was Officer
7 Redacted F Redacted. And then there were four
8 other officers, I believe an officer -- let me
9 know when you are ready, because I know you
10 are taking notes.
11 Q. No, we have the court reporter here,
12 so I'm listening.
13 A. There was an Officer V Redacted, an
14 Officer Sa Redacted, an Officer Sz Redacted,
15 Officer Fischetti and one other officer that I
16 can't think of right now, but there were five
17 officers who had lower seniority than mine,
18 with Officer F Redacted being the least senior
19 officer, I was told during this holiday
20 season.
21 Q. When you say "this holiday season,"
22 you are referring to the 2007 holiday season?
23 A. Yes, for Thanksgiving and Christmas
24 by Supervisor Sachdeva that I was going to
25 have to work Thanksgiving and Christmas.

Page 68

1 R. Figueroa
2 Okay. Well, what do you mean, I worked
3 Thanksgiving and Christmas the previous year,
4 because I was the least senior guy. And
5 that's all well documented and can be proven
6 at any time.
7 Q. So when were you told by Ms. Sachdeva
8 that you were going to have to work
9 Thanksgiving and Christmas of 2007?
10 A. Sometime in November.
11 Q. So sometime in November of 2007 you
12 were told by Ms. Sachdeva that you were going
13 to have to work the Thanksgiving and Christmas
14 holiday that season?
15 A. I believe just the Thanksgiving
16 holiday --
17 Q. So --
18 A. -- because we weren't up to
19 Thanksgiving yet.
20 Q. All right. So just let me make sure
21 I understand this.
22 So sometime in November of 2007 you
23 are told by Ms. Sachdeva you are going to have
24 to work Thanksgiving; correct?
25 A. Yes.

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
69-72

Page 69

1 R. Figueroa

2 Q. And tell me about that conversation

3 itself? Do you recall when in November of

4 2007 it was prior to Thanksgiving?

5 A. It was prior to Thanksgiving. We

6 were given notices as to the holidays we were

7 going to be assigned.

8 Q. Now, let me ask you, how were the

9 holiday schedules assigned during that period?

10 So, in other words, did people put in to say I

11 want to not work on Thanksgiving, Christmas or

12 any other holiday?

13 A. No, the way the procedure worked was

14 we know Thanksgiving and Christmas are primary

15 holidays, as well as New Year's Eve and New

16 Year's Day. So officers don't have to put in

17 for them, because the seniority takes care of

18 it.

19 I am a senior man here, I will not be

20 working those holidays. The junior people,

21 there is no need to put in for it. Okay,

22 that's how the system operated.

23 Q. When you say "that's how the system

24 operated" in 2007, is there a specific policy

25 that you know about that you can refer to

Page 70

1 R. Figueroa

2 during that period in terms of how holiday

3 schedules worked?

4 A. Yes, the union contract.

5 Q. So the NTE union contract for that

6 period governed how the holiday schedule would

7 be assigned?

8 MR. WOLIN: Objection.

9 You can answer it.

10 A. It stipulated that holidays will be

11 assigned as per seniority basis.

12 Q. Okay.

13 A. Okay. Now, what happens is you do

14 get assigned holidays, but you get what's

15 considered by most people the non-important

16 holidays, such as, I don't know maybe Martin

17 Luther King day because it's not a big family

18 day, and it sometimes falls within the week,

19 so it's not like a Christmas or a

20 Thanksgiving, which is a big family holiday

21 that often falls around the weekend or part of

22 the weekend.

23 So sometimes it's even extended. So

24 a holiday such as that, Veterans or Memorial

25 Day, although it's very big with people who

Page 71

1 R. Figueroa

2 are patriotic and Veterans, once again, it's

3 not like a Christmas or a Thanksgiving. So if

4 your seniority called for you to work on one

5 of these holidays, you worked your holidays.

6 Now, I was given a holiday that was

7 unheard of for a man of my seniority.

8 Q. So let's focus on that conversation

9 back in November of 2007.

10 What do you recall Ms. Sachdeva

11 saying to you when she told you you'd have to

12 work the Thanksgiving holiday?

13 A. Well, I believe she gave everyone

14 notices as to the holidays that we were

15 working. And I approached her and I said,

16 "Excuse me, I'd like to speak to you about my

17 working on Thanksgiving. How is this

18 possible? Seniority dictates that I'm to be

19 off on that day."

20 Q. What did she say in response?

21 A. She said, "That's how the holidays

22 are going to fall and that's how you are going

23 to be working on that day."

24 She is making up a rule on her own

25 that's totally against the way we are

Page 72

1 R. Figueroa

2 operating there at JFK by virtue of the union

3 contract. She is not entitled to do that.

4 She has to go along with the union contract as

5 per the higher echelon of the airport in the

6 area of management that has to follow along

7 the union guidelines as well.

8 Q. So what happened next?

9 A. So she says, "That's the holiday you

10 are going to be working and you are going to

11 have to figure a way out on your own."

12 All right. So I started going

13 speaking with other managers as well as the

14 union, and I pointed out how the year before I

15 was the least senior individual and worked the

16 two holidays that were very popular, because

17 of the fact my seniority dictated that. And

18 my seniority dictates this year, this

19 particular year, that I do not work on these

20 holidays, yet she is assigning me this

21 holiday, all right.

22 I didn't get any assistance. I got

23 supervisors that told me I didn't prepare the

24 holiday schedule, if I did, it surely would

25 not have worked out this way.

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
73-76

<p style="text-align: right;">Page 73</p> <p>1 R. Figueroa</p> <p>2 Q. Can you tell me back in 2007 when you</p> <p>3 were assigned to the mail branch, how many CBP</p> <p>4 folks worked in the mail branch during that</p> <p>5 period?</p> <p>6 A. I can't give you a specific number,</p> <p>7 but for some reason the number 16 stands out</p> <p>8 in my mind, but I can't be held to it because</p> <p>9 I may be wrong, but suffice to say</p> <p>10 approximately 20 people, 20 officers assigned</p> <p>11 to the mail branch. We also have civilian</p> <p>12 personnel assigned there as well.</p> <p>13 Q. But in terms of officers, there are</p> <p>14 approximately 20 were assigned to the mail</p> <p>15 branch back in 2007, approximately?</p> <p>16 A. Approximately.</p> <p>17 Q. Okay. Now, back then in 2007, even</p> <p>18 if you are a senior CBP officer in the mail</p> <p>19 branch, would you get all of the major</p> <p>20 holidays off normally back in 2007?</p> <p>21 A. Yes.</p> <p>22 Q. So every major holiday you would get</p> <p>23 off based on seniority?</p> <p>24 MR. WOLIN: Objection.</p> <p>25 A. Well, that's what the contract called</p>	<p style="text-align: right;">Page 75</p> <p>1 R. Figueroa</p> <p>2 that correct?</p> <p>3 A. No, I was not satisfied, because it's</p> <p>4 going against the contract, and I adhered to</p> <p>5 the contract parameters the prior year,</p> <p>6 nothing has changed.</p> <p>7 Q. Okay.</p> <p>8 A. Now, if I adhered to the rules and</p> <p>9 regulations, why can't someone in the stature</p> <p>10 of supervisor do the same.</p> <p>11 Q. So it was your belief that the</p> <p>12 contract had not been followed in relation to</p> <p>13 you being a senior person back then with</p> <p>14 regard to how the way the holiday schedule had</p> <p>15 been assigned?</p> <p>16 THE WITNESS: Repeat that again for</p> <p>17 me?</p> <p>18 MR. LYNCH: Can you repeat my</p> <p>19 question?</p> <p>20 (Question read.)</p> <p>21 A. It's not my belief or disbelief. The</p> <p>22 fact of the matter is the contract was not</p> <p>23 followed.</p> <p>24 Q. Well, that's what I'm asking though,</p> <p>25 your belief, though. You know, that's what --</p>
<p style="text-align: right;">Page 74</p> <p>1 R. Figueroa</p> <p>2 for. You know, when a union contract is</p> <p>3 established, it's established between the</p> <p>4 union party and the port that you are working</p> <p>5 at. And this is a contract that's in effect</p> <p>6 throughout the entire United States.</p> <p>7 So suffice to say, that an officer</p> <p>8 working at JFK, when it comes to holiday</p> <p>9 assignments, it works the same way, you know,</p> <p>10 it's supposed to work the same way at all the</p> <p>11 other ports as well.</p> <p>12 Q. Back just in 2007, if you are a</p> <p>13 senior person in the mail branch, are you</p> <p>14 saying that you would be entitled to all of</p> <p>15 the major holidays that year off?</p> <p>16 MR. WOLIN: Objection.</p> <p>17 A. Well, once again, the contract</p> <p>18 dictated that holidays are to be assigned as</p> <p>19 per seniority.</p> <p>20 Q. Okay.</p> <p>21 A. So if you had high seniority, you</p> <p>22 would not get the holiday.</p> <p>23 Q. All right. So it's fair to say you</p> <p>24 were not pleased that you had been assigned to</p> <p>25 work the Thanksgiving holiday back in 2007; is</p>	<p style="text-align: right;">Page 76</p> <p>1 R. Figueroa</p> <p>2 we all have beliefs, whether they are based on</p> <p>3 facts or not.</p> <p>4 So just my question was, was it your</p> <p>5 belief back in November of 2007 that when you</p> <p>6 had been assigned to work the Thanksgiving</p> <p>7 holiday that the union contract had not been</p> <p>8 followed; is that correct?</p> <p>9 A. Right, but it goes beyond just my</p> <p>10 belief, sir. It was --</p> <p>11 MR. WOLIN: He already made that</p> <p>12 clear and he already explained what he meant</p> <p>13 by "your belief."</p> <p>14 A. That the contract had not been</p> <p>15 followed.</p> <p>16 Q. Right. And you had complained to</p> <p>17 your union back in November of 2007 that you</p> <p>18 didn't believe that the union contract had</p> <p>19 been followed with regard to the holiday</p> <p>20 schedule, you being a senior person; is that</p> <p>21 right?</p> <p>22 A. That is correct.</p> <p>23 Q. Okay.</p> <p>24 A. Furthermore, I have to add that she</p> <p>25 gave Officer FRedacted, the least senior</p>

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
77-80

Page 77

1 R. Figueroa
2 individual that holiday off.
3 Q. Okay. And how did you know that
4 Officer F~~Redacted~~ had the Thanksgiving holiday
5 off?
6 A. Well, the holiday schedule was
7 printed up.
8 Q. Okay. So let's just backup because
9 again, I'm not there.
10 Sometime in November of 2007
11 Sachdeva, as a supervisor, hands out cards
12 letting folks know which CBP officers are
13 assigned to work the holidays for that year;
14 is that correct?
15 A. Well not card, but she prints up a
16 memorandum and she'll post it indicating this
17 is the holiday schedule for the time period
18 concerned.
19 Q. Okay, so there is a holiday schedule
20 memo that gets posted of who is going to be
21 working the holidays for the rest of 2007?
22 A. Yes.
23 Q. And that was sometime in November of
24 2007; correct?
25 A. Yes.

Page 78

1 R. Figueroa
2 Q. Okay. And is it that you found out
3 from looking at the general memo that was
4 posted that you would have to work that
5 Thanksgiving holiday?
6 A. Yes.
7 Q. And where was this memo posted in
8 relation to --
9 A. I don't remember, but it was in an
10 area conspicuous where we congregate, either
11 the lunchroom or the lineup area where we
12 begin our shift, but it was somewhere posted
13 conspicuously, and in more than one location.
14 Q. And that memo lists where every
15 officer for the remainder of 2007 is going to
16 be working a holiday?
17 A. It will stipulate what holidays you
18 will be working. And by stipulating what
19 holidays you are working, therefore, tells you
20 what holidays you will be off.
21 Q. Okay. And when you had went to your
22 union, did you see a union rep?
23 A. Yes, I did.
24 Q. Who was the union rep that you saw to
25 complain?

Page 79

1 R. Figueroa
2 A. I believe it was John Will.
3 Q. Okay. And did you ask Mr. Will to
4 file a grievances on your behalf?
5 A. Oh, yes, but the idea was for them to
6 make phone calls, because a grievance is
7 something that takes time, it doesn't address
8 the matter in the immediate.
9 Q. So when you went to see John Will,
10 who was your union rep back in November of
11 2007, what did you say to him?
12 A. I told him that -- just what I
13 explained here, that the prior year I was the
14 least senior man, I worked my holidays this
15 year, I am not the least senior man, there are
16 five people underneath me. And the least
17 senior guy got the Thanksgiving holiday off
18 and I have to come in on Thanksgiving?
19 Q. What did Mr. John Will say in
20 response?
21 A. He said that we'll initiate a
22 grievance, but we'll try to make phone calls
23 to see if we can get this resolved so it
24 doesn't have to go that route.
25 Q. And do you know if the union did make

Page 80

1 R. Figueroa
2 phone calls on your behalf with regard to this
3 Thanksgiving holiday issue?
4 A. They told me they did.
5 Q. Okay. And when did they tell you
6 that they did make phone calls on your behalf?
7 A. Probably the next day or the day
8 after, but, you know, within a couple of days.
9 Q. Was it Mr. Will as a union rep that
10 reported to you that they made phone calls on
11 your behalf?
12 A. Yes.
13 Q. What did Mr. Will say to you?
14 A. That phone calls were made, but we
15 are waiting to hear back from some people, but
16 so far it doesn't look good.
17 Q. Did you ask Mr. Will why didn't it
18 look good?
19 A. Yes, and he told me this is what she
20 did and they are going along with her
21 scheduling of the holidays.
22 Q. When he said "they," who was Mr. John
23 Will referring to?
24 A. Upper management.
25 Q. And did Mr. John Will explain why

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
81-84

Page 81	Page 83
<p>1 R. Figueroa 2 they were going along with Ms. Sachdeva? 3 A. No. 4 Q. Did you ask him? 5 A. Yes. 6 Q. What did he say? 7 A. I don't know why. 8 Q. And ultimately, how was the 9 Thanksgiving issue back in 2007 resolved? 10 Were you being assigned to work? 11 A. It wasn't resolved. I was assigned 12 to work that holiday. 13 Q. When did you receive notice that it 14 was not going to be resolved in your favor? 15 A. Just naturally prior to the holiday 16 arriving, and it was verbal. 17 Q. Do you recall what day that was? 18 A. No, I don't. 19 Q. So tell me about how did you verbally 20 find out that the Thanksgiving 2007 holiday 21 issue hadn't been resolved in your favor? 22 A. Well, Mr. Will told me and also 23 Officer Fasano. 24 Q. So tell me about the day Mr. Will 25 told you that the Thanksgiving holiday issue</p>	<p>1 R. Figueroa 2 So, therefore, you look and see who's got the 3 most seniority and who's got the least 4 seniority and you schedule them accordingly. 5 Q. How did Mr. Fasano though get 6 involved with this Thanksgiving holiday 2007 7 issue? 8 A. Well, he said that -- 9 Q. Did you go complain to Mr. Fasano? 10 A. Yes, I did. 11 Q. Why did you go to complain to Mr. 12 Fasano? 13 A. Because he is a de facto senior 14 person who pretty much acts as a senior 15 adviser, if you will, to management and 16 management listens to him and his opinions 17 practically all the time. 18 So he is generally a problem solver 19 for the members who work there and as a 20 go-between between us and management. 21 Q. But he wasn't one of your supervisors 22 back then? 23 A. No, he wasn't one of the supervisors, 24 but he was a union representative as well. 25 Q. Okay. So in addition to Mr. Will,</p>
Page 82	Page 84
<p>1 R. Figueroa 2 hadn't been resolved in your favor? 3 A. Well, basically I already stated that 4 he just told me they are not budging on it, 5 you are going to have to work the Thanksgiving 6 holiday and they are giving this kid, meaning 7 Officer Fischetti, the day off. 8 Q. Did you ask him why? 9 A. Yes, I did. 10 Q. What did he say? 11 A. He said, "I have no answer for you. 12 I don't know why." 13 Q. And you also mentioned that you had 14 found out from Officer Fasano that the 15 Thanksgiving 2007 holiday issue hadn't been 16 resolved. 17 When did you speak to Mr. Fasano? 18 A. All throughout the same time I was 19 speaking with Mr. Will. 20 Q. Who exactly is Mr. Fasano? 21 A. Mr. Fasano is a senior officer who 22 handled most administrative functions at the 23 mail branch, including making up the holiday 24 schedule, because the supervisor does not have 25 to make that up because the rules are clear.</p>	<p>1 R. Figueroa 2 Mr. Fasano also functioned as a union 3 representative? 4 A. Yes, he did. 5 Q. Okay. And so tell me about the 6 conversation with Mr. Fasano when you learned 7 that the Thanksgiving issue hadn't been 8 resolved in your favor? 9 A. Well, basically it was the same 10 conversation. I said, "Look I was working the 11 holiday before because I was the least senior 12 guy. This year I have five officers 13 underneath me, with Officer Fischetti being 14 the least senior individual, and can someone 15 explain to me how he gets Thanksgiving off and 16 I have to come in on Thanksgiving day?" 17 He said, "That's not right, I'll look 18 into it. We have to get that corrected." 19 Q. And then there came a time that Mr. 20 Fasano said that it hadn't been resolved; 21 correct? 22 A. Right, he told me "for some reason 23 they want you to work Thanksgiving, and I 24 don't know why." 25 Q. And what did you do next after you</p>

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
105-108

Page 105

1 R. Figueroa
2 fact that Ms. Sachdeva had assigned you to
3 work the Thanksgiving holiday?
4 A. No, sir, because I'm going to tell
5 you something, even though I'm irritated now,
6 I'm actually downright nervous, because I
7 don't know what she is going to do at this
8 point in the game.
9 Q. But just in terms of why you didn't
10 want to speak to Ms. Sachdeva leading up to
11 the two of you going into the detention room
12 when you say she had asked to speak with you
13 not once, not twice, but three times, is it
14 fair to say you were angry about the fact that
15 she had assigned you to work the Thanksgiving
16 holiday?
17 MR. WOLIN: Objection.
18 You can answer it.
19 A. Well, I certainly didn't want to
20 speak to her because of what she had done, and
21 it's painfully obvious what you did, you
22 disregarded the union contract. You
23 disregarded the procedure on how to assign
24 people holidays. You gave the least senior
25 guy the holiday off. Okay, how is anyone

Page 106

1 R. Figueroa
2 supposed to feel in their right mind.
3 Q. So at the point that she had assigned
4 you to work the holiday, the Thanksgiving 2007
5 holiday and it hadn't been resolved, you
6 really didn't want to have anything to do with
7 her unless it related to official business as
8 you say; do I understand correctly?
9 A. Yes, that is my prerogative, and that
10 is one of the freedoms I enjoy under the
11 constitution, I don't have to engage in your
12 company unless it relates to what I'm being
13 paid to do.
14 Q. All right. So now we are going back
15 into the detention room, and after you tell
16 Ms. Sachdeva what exactly do you want from me,
17 what happens next?
18 A. Well, she begins to say "What's the
19 matter? Did I do something?"
20 "Did you do something? That whole
21 holiday thing, are you forgetting that? Why
22 did you do that?"
23 Then she begins to say, "Well, you
24 gotta understand I didn't mean for it to turn
25 out that way."

Page 107

1 R. Figueroa
2 "Didn't mean for it to turn out that
3 way? I brought it to your attention or it was
4 brought to your attention you still did
5 nothing about it, okay."
6 Furthermore, what you went ahead and
7 did was -- we have a computer, a scheduling
8 system, it's known as COSS, I think it stands
9 for Customs Officers Scheduling System, okay,
10 anyone can sign-in to this system if you want
11 to see where a particular officer is working,
12 all right. If you want to see if a particular
13 officer is going to be working anywhere nearby
14 you or you are going to be working with a
15 particular officer, anyone is entitled to do
16 an inquiry into the system. okay.
17 They have Officer F~~Redacted~~ working
18 on Thanksgiving Day listed in the computer,
19 okay. Prior to Thanksgiving Day coming, it
20 was switched. So what you did was, so
21 everybody in the rest of the airport, and then
22 there isn't a bigger outcry, you made it look
23 like F~~Redacted~~ was going to work, and then at
24 the last minute you switched him to having the
25 holiday off so it's too late for anybody to do

Page 108

1 R. Figueroa
2 anything about it, in the event they inquiry
3 COSS, okay. My guess is it was Officer
4 Sachdeva that did that.
5 Q. Why do you guess that it was Ms.
6 Sachdeva?
7 A. Well, she gave him the day off. Who
8 else was going to put him in as having the day
9 off, and why did you wait until the last
10 minute?
11 Q. So, I'm sorry, I'm not understanding
12 what the issue was with Mr F~~Redacted~~ and the
13 COSS system.
14 A. Everyone knows Officer F~~Redacted~~ is a
15 new officer, okay. Everyone is well aware of
16 their seniority and their standing. If they
17 look up and they see who is getting a holiday
18 off and they know that that's a junior officer
19 and he is getting the holiday off and they
20 have to work a holiday, there will be more of
21 an outcry.
22 So that Ms. Sachdeva doesn't have to
23 suffer the pangs of that outcry, it would
24 behoove someone to change Officer F~~Redacted~~'s
25 assignment at the last possible second to

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
109-112

<p style="text-align: right;">Page 109</p> <p>1 R. Figueroa</p> <p>2 having the holiday off.</p> <p>3 Q. But I thought there was the memo, the</p> <p>4 holiday schedule?</p> <p>5 A. We knew at the mail branch that he</p> <p>6 was going to have it off.</p> <p>7 Q. Right?</p> <p>8 A. But now airport-wide doesn't know</p> <p>9 about this, unless people speak about it.</p> <p>10 Q. But the memo is posted in a</p> <p>11 conspicuous area?</p> <p>12 A. For ourselves in the mail branch.</p> <p>13 Chances are the news is going to get out, but</p> <p>14 just so people can't point to it and say look,</p> <p>15 it's documented, he is going to have the day</p> <p>16 off, okay, it was done at the last minute.</p> <p>17 Q. So you are saying at the last minute</p> <p>18 it was entered into the COSS system that</p> <p>19 Officer F^{Redacted} was not going to be working</p> <p>20 the Thanksgiving 2007 holiday?</p> <p>21 A. That's right. All the other holiday</p> <p>22 assignments were in there except for Officer</p> <p>23 F^{Redacted}'s.</p> <p>24 Q. And how do you know this?</p> <p>25 A. Because I knew what was going on. I</p>	<p style="text-align: right;">Page 111</p> <p>1 R. Figueroa</p> <p>2 A. Now, you guys got me lost.</p> <p>3 Q. Just -- you explained to me earlier</p> <p>4 you spent sometime explaining to me the COSS</p> <p>5 system and with F^{Redacted}.</p> <p>6 Right now I want to know exactly what</p> <p>7 you said to her with respect to the COSS</p> <p>8 system, because now I get it. So just what</p> <p>9 you said to her?</p> <p>10 MR. WOLIN: He is asking you what you</p> <p>11 said to her.</p> <p>12 Q. Right, what did you say to her as far</p> <p>13 as the COSS system?</p> <p>14 A. Well, I told her, you know, "look at</p> <p>15 what you did in COSS. You put him in so that</p> <p>16 people wouldn't have a complaint."</p> <p>17 Q. And what did she say in response?</p> <p>18 A. She said, "Well you have to</p> <p>19 understand, in order to get this whole thing</p> <p>20 done, I had papers all over the floor of my</p> <p>21 house, this was such a difficult exercise that</p> <p>22 I wish you could have seen the big mess I have</p> <p>23 in order to get this accomplished, but you</p> <p>24 can't see it because I threw it all away."</p> <p>25 I'm saying "I don't understand how it</p>
<p style="text-align: right;">Page 110</p> <p>1 R. Figueroa</p> <p>2 looked it up. Anybody who works there knows</p> <p>3 how to substantiate what their accusations</p> <p>4 are.</p> <p>5 MR. WOLIN: I think the question was</p> <p>6 what was discussed at the meeting in the</p> <p>7 detention room.</p> <p>8 MR. LYNCH: Well, we are going to get</p> <p>9 there.</p> <p>10 MR. WOLIN: Listen to the question.</p> <p>11 THE WITNESS: Yes, but if I said look</p> <p>12 at what you did with Officer F^{Redacted} and</p> <p>13 COSS, you are not going to understand what I</p> <p>14 mean.</p> <p>15 MR. LYNCH: Okay. Can you just read</p> <p>16 his answer before that?</p> <p>17 Q. Why don't you tell me exactly what</p> <p>18 you said to Ms. Sachdeva while you were in the</p> <p>19 detention room?</p> <p>20 MR. WOLIN: Was your question</p> <p>21 concerning the COSS?</p> <p>22 Q. Right, what exactly did you say to</p> <p>23 Ms. Sachdeva as far as the COSS system when</p> <p>24 you were in the detention room back on</p> <p>25 December 29, 2007?</p>	<p style="text-align: right;">Page 112</p> <p>1 R. Figueroa</p> <p>2 can be this big drawn out thing, you only have</p> <p>3 but a couple of people to assign on that day,</p> <p>4 so how is it that you have the floor strewn</p> <p>5 with paperwork in order to get it done?"</p> <p>6 She said, "Well, if you thought it</p> <p>7 was so easy, then maybe you should have done</p> <p>8 it."</p> <p>9 I said, "A lot of people have said</p> <p>10 they wish they could have done it and that you</p> <p>11 shouldn't have, if this is how it's going to</p> <p>12 turn out."</p> <p>13 Q. And what happened next?</p> <p>14 A. Well, she kept saying "I didn't mean</p> <p>15 for it to happen, that wasn't my intention."</p> <p>16 "You are lying, it was your intention</p> <p>17 to do that, because you had to skip over a lot</p> <p>18 of people just to get to me and assign me on</p> <p>19 that day, so you are lying to me, okay. I</p> <p>20 don't want to talk to you anymore."</p> <p>21 Q. And then what happened?</p> <p>22 A. As far as I remember, we left the</p> <p>23 room.</p> <p>24 Q. How long did the incident itself last</p> <p>25 on December 29, 2007?</p>

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
113-116

<p style="text-align: right;">Page 113</p> <p>1 R. Figueroa</p> <p>2 A. Maybe a minute or two, three</p> <p>3 possibly. No longer than that.</p> <p>4 Q. No longer than?</p> <p>5 A. A couple of minutes.</p> <p>6 Q. So you are saying the whole</p> <p>7 conversation lasted no more than a couple of</p> <p>8 minutes?</p> <p>9 MR. WOLIN: Objection.</p> <p>10 Can you just clarify? You are</p> <p>11 referring to the conversation in the detention</p> <p>12 room?</p> <p>13 Q. In terms of the incident itself</p> <p>14 between you and Ms. Sachdeva in the detention</p> <p>15 room?</p> <p>16 A. A few minutes.</p> <p>17 Q. How long did that incident last in</p> <p>18 the detention room?</p> <p>19 A. A few minutes.</p> <p>20 Q. Okay. When you say "a few minutes,"</p> <p>21 is that under 10 minutes?</p> <p>22 A. I would say so.</p> <p>23 Q. More than five minutes?</p> <p>24 A. I don't know. I don't know, it's a</p> <p>25 few minutes. I mean the whole thing was</p>	<p style="text-align: right;">Page 115</p> <p>1 R. Figueroa</p> <p>2 No isn't working, because she is</p> <p>3 still there. There was no confusion as to my</p> <p>4 intention. I did not want to talk to you</p> <p>5 lady, but why are you still insisting.</p> <p>6 Q. Okay, but when you use the word</p> <p>7 coerced, how were you coerced into going into</p> <p>8 the detention room?</p> <p>9 MR. WOLIN: Objection.</p> <p>10 I think he already answered it.</p> <p>11 A. I already answered it.</p> <p>12 MR. LYNCH: You can make the</p> <p>13 objection.</p> <p>14 MR. WOLIN: I know, no speaking</p> <p>15 objections.</p> <p>16 Q. When you say coerced, sir --</p> <p>17 A. You are constantly telling me you</p> <p>18 want to talk to me and you are not leaving me</p> <p>19 alone. You are not allowing me to engage in</p> <p>20 free will at that point. You are a</p> <p>21 supervisor, you have rank, okay. You are</p> <p>22 telling me constantly that you want to talk to</p> <p>23 me, you want to talk to me, you want to talk</p> <p>24 to me, you have rang. Okay, the playing field</p> <p>25 is not equal at that point. And your</p>
<p style="text-align: right;">Page 114</p> <p>1 R. Figueroa</p> <p>2 recorded. I'm sure you can retrieve it.</p> <p>3 Q. Why do you say it was recorded?</p> <p>4 A. We know the detention room is</p> <p>5 recorded. That's why I went in there. We</p> <p>6 store drugs and weapons in there, it has to be</p> <p>7 recorded.</p> <p>8 Q. Well, how would you characterize the</p> <p>9 incident between you and Ms. Sachdeva in the</p> <p>10 detention room? For example, would you refer</p> <p>11 to it as an argument? A conversation? How</p> <p>12 would you characterize the incident between</p> <p>13 you two in the detention room?</p> <p>14 A. Being as how I didn't want to be</p> <p>15 there, but I was there through coercion and</p> <p>16 not knowing where else I can turn --</p> <p>17 Q. Well, when you say you were "there</p> <p>18 through coercion," what do you mean? She</p> <p>19 didn't order you to go into the detention</p> <p>20 room?</p> <p>21 A. She is a supervisor, she is not</p> <p>22 another officer. A supervisor keeps telling</p> <p>23 you I want to have a chance to talk to you, I</p> <p>24 want to talk to you three times, how many</p> <p>25 times before you wind up saying yes.</p>	<p style="text-align: right;">Page 116</p> <p>1 R. Figueroa</p> <p>2 repetition, repetition, I felt coerced and I</p> <p>3 think anyone else would have categorized it</p> <p>4 the same way.</p> <p>5 MR. LYNCH: Okay. Can you just read</p> <p>6 my last question back?</p> <p>7 (Question read.)</p> <p>8 Q. Well, would you say it was an</p> <p>9 argument between the two of you when you were</p> <p>10 in the detention room?</p> <p>11 A. I would say it was a heated</p> <p>12 discussion.</p> <p>13 Q. Why do you say "a heated discussion?"</p> <p>14 A. I didn't want to be there, sir.</p> <p>15 Q. Okay. All right. But when you say</p> <p>16 "a heated discussion" and again, Mr. Figueroa,</p> <p>17 let me be clear, when you say certain terms, I</p> <p>18 don't know what they mean, so when you say</p> <p>19 them the natural response is going to be to</p> <p>20 explain. You can't just tell me a heated</p> <p>21 discussion. What does that mean? A heated</p> <p>22 discussion, and you are a CBO officer, means</p> <p>23 one thing to somebody else than another.</p> <p>24 What does a heated discussion mean to</p> <p>25 you when you are describing the incident</p>

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
117-120

<p style="text-align: right;">Page 117</p> <p>1 R. Figueroa</p> <p>2 between the two of you in the detention room?</p> <p>3 A. Okay, I didn't want to be in the</p> <p>4 detention room. I felt coerced by being in</p> <p>5 there. I don't know what this woman is</p> <p>6 capable of doing, okay. You already lied to</p> <p>7 me, all right, and you went ahead and flat out</p> <p>8 did this boldface move, disregarding</p> <p>9 everything that you needed to adhere to, and</p> <p>10 you disregarded it and you went ahead and you</p> <p>11 did it anyway.</p> <p>12 So it's leading me to believe that</p> <p>13 she is capable of fabricating just about</p> <p>14 anything.</p> <p>15 Q. Okay. When you say it was "a heated</p> <p>16 discussion" sir, were you raising your voice</p> <p>17 to Ms. Sachdeva?</p> <p>18 A. I don't recall. I know that she was</p> <p>19 raising her voice to me. So I may have raised</p> <p>20 my voice to match hers.</p> <p>21 Q. How do you remember that she raised</p> <p>22 her voice to you, but you don't know if you</p> <p>23 raised your voice to her?</p> <p>24 A. Because I remember her actions.</p> <p>25 Remember, I'm there to see what she is going</p>	<p style="text-align: right;">Page 119</p> <p>1 R. Figueroa</p> <p>2 a look at -- let's have this marked as</p> <p>3 Defendant's Exhibit 4?</p> <p>4 THE WITNESS: Is all that documents</p> <p>5 from this case?</p> <p>6 MR. WOLIN: Wait. You don't ask any</p> <p>7 questions. If you want to ask me a question,</p> <p>8 we can step outside.</p> <p>9 MR. LYNCH: You can mark this.</p> <p>10 (Defendant's Exhibit 4, January 3,</p> <p>11 2008 memorandum was so marked for identification.)</p> <p>12 Q. I'm showing you what's been marked as</p> <p>13 Defendant's Exhibit 4. Just take a moment to</p> <p>14 look at it and just let me know when you are</p> <p>15 finished, Mr. Figueroa?</p> <p>16 A. Okay, I'm finished.</p> <p>17 Q. Okay. Do you recognize Defendant's</p> <p>18 Exhibit 4?</p> <p>19 A. Yes.</p> <p>20 Q. Can you tell me what it is, sir?</p> <p>21 A. I had to write up a written memo</p> <p>22 concerning the incident with Ms. Sachdeva.</p> <p>23 Q. And is what you are looking at,</p> <p>24 Defendant's Exhibit 4, a copy of that memo?</p> <p>25 A. I believe it is, yes.</p>
<p style="text-align: right;">Page 118</p> <p>1 R. Figueroa</p> <p>2 to do. I'm not going to be there so that</p> <p>3 one day I can write down thinking that this</p> <p>4 might turn into a play or something along</p> <p>5 those lines. I'm there to see what she is</p> <p>6 there to do. I'm focusing on her.</p> <p>7 Q. But Mr. Figueroa, my question is</p> <p>8 focused because you were there, you also know</p> <p>9 what you did, sir, okay. So you have present</p> <p>10 sense impression and you were there, okay.</p> <p>11 So if you are seeing Ms. Sachdeva,</p> <p>12 okay, naturally I'm going to ask you, what did</p> <p>13 you do, because you were there.</p> <p>14 So if you know that she raised her</p> <p>15 voice at you, why don't you know, sir, whether</p> <p>16 or not you raised your voice back at her?</p> <p>17 A. I probably did.</p> <p>18 Q. So you probably did raise your voice</p> <p>19 to her?</p> <p>20 A. Yes.</p> <p>21 Q. So when you described this as a</p> <p>22 heated discussion, is that because the two of</p> <p>23 you were raising your voices at one another?</p> <p>24 A. Yes.</p> <p>25 MR. LYNCH: All right. So let's take</p>	<p style="text-align: right;">Page 120</p> <p>1 R. Figueroa</p> <p>2 Q. And was the memo that you are</p> <p>3 referring to that's Defendant's Exhibit 4, is</p> <p>4 this a copy of a memo that you prepared, sir?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And the memo is dated</p> <p>7 January 3, 2008, is that around the time that</p> <p>8 you prepared the memo that's been marked</p> <p>9 Defendant's Exhibit 4?</p> <p>10 A. Well, I don't remember exactly what</p> <p>11 date, but I would say that's probably correct.</p> <p>12 Q. All right. So I'm going to also</p> <p>13 refer to Defendant's Exhibit 4 as the</p> <p>14 January 3, 2008 memorandum okay?</p> <p>15 A. Okay.</p> <p>16 Q. Now, just focusing on the second full</p> <p>17 paragraph on Defendant's Exhibit 4?</p> <p>18 A. The second paragraph?</p> <p>19 Q. The second full paragraph.</p> <p>20 Specifically, I want to direct your attention</p> <p>21 to the second to last sentence where it</p> <p>22 states, "At the end of the conversation, I</p> <p>23 felt ill and told SCBPO Sachdeva that I was</p> <p>24 sick."</p> <p>25 Can you tell me when you said, "at</p>

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
157-160

Page 157

1 R. Figueroa
2 A. No.
3 Q. Okay. So then what happened at that
4 point?
5 A. I waited for my union representation.
6 Q. So even without knowing what it was
7 about that Chief Rios wanted to speak with
8 you, you had asked to have a union
9 representative present?
10 A. Yes.
11 Q. And for what reason?
12 A. I wasn't told what they wanted to
13 speak with me about.
14 Q. And so at a certain point on
15 March 18, 2008, your union rep came to see
16 you?
17 A. Yes.
18 Q. Do you remember who that union rep
19 was?
20 A. No, I don't.
21 Q. What happened when he or she arrived?
22 A. I believe it was a he. I believe it
23 may have been John Will, and he was informed
24 as to what was going to go on, and then he
25 told me.

Page 158

1 R. Figueroa
2 Q. Okay. And how was Mr. Will informed
3 what was going on?
4 A. He must have been told by Chief Rios.
5 Q. So at a certain point on March 18,
6 2008, Chief Rios asked you to sign this
7 March 17, 2008 memo?
8 A. Yes.
9 Q. Okay. And at the point that she had
10 asked you to sign it, was your union rep
11 present at that point?
12 A. Yes.
13 Q. Okay. And at that point, why did you
14 refuse to sign it?
15 A. That's my right.
16 Q. Okay.
17 A. That's any officer's right.
18 Q. Okay, but I understand that that's
19 your right, but my question is why? Did you
20 believe that by signing this that you were
21 agreeing to what was written in the March 17,
22 2008 memo?
23 A. Well, I was thinking more along the
24 lines why should I sign the memo?
25 Q. Did you understand that it was just

Page 159

1 R. Figueroa
2 to acknowledge receipt of this March 17, 2008
3 notice of proposal to suspend you?
4 A. Well, it didn't matter what the
5 intention was. Every officer has a right to
6 refuse to sign. I exercised my right, it's as
7 simple as that.
8 Q. Okay. So after you received the
9 March 17, 2008 notice of proposal to suspend
10 also marked Defendant's Exhibit 4, what, if
11 anything, did you do in response now that you
12 had this in your hand?
13 A. I spoke with the union.
14 Q. Okay. Well, when you look on the
15 second page of this March 17, 2008 notice of
16 proposal to suspend you, it indicates in the
17 second full paragraph that you had a right to
18 reply to the proposal orally or in writing or
19 both, okay.
20 Did you provide any type of response
21 to this March 17, 2008 notice of proposal?
22 A. Well, I didn't provide an oral reply,
23 not an immediate oral reply.
24 Q. Did you provide a reply that was in
25 writing?

Page 160

1 R. Figueroa
2 A. I cannot recall.
3 MR. LYNCH: If we can have that
4 marked as Defendant's Exhibit 5.
5 (Defendant's Exhibit 5, April 8, 2008
6 e-mail response was so marked for identification.)
7 Q. I'm going to show you a document
8 that's been marked as Defendant's Exhibit 5.
9 Just take a moment to review it and let me
10 know when you have finished reviewing it, sir.
11 A. Okay.
12 Q. Do you recognize what's been marked
13 as Defendant's Exhibit 5?
14 A. Yes.
15 Q. Can you tell me what it is, sir?
16 A. It must be a written response to the
17 charges that I received on March 18th.
18 Q. Okay. And do you recognize
19 Defendant's Exhibit 5 as the written response
20 that you provided to the March 17, 2008 notice
21 of proposal to suspend you?
22 A. I'm sorry, I didn't hear the last
23 half of your question.
24 MR. LYNCH: Can you read it back?
25 (Question read.)

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
161-164

Page 161	Page 163
<p>1 R. Figueroa</p> <p>2 A. Yes.</p> <p>3 Q. And according to Defendant's</p> <p>4 Exhibit 5, your written response was provided</p> <p>5 in the form of an e-mail dated April 18, 2008?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. Does reviewing Defendant's</p> <p>8 Exhibit 5 refresh your recollection as to</p> <p>9 whether you provided a written response to the</p> <p>10 March 17, 2008 notice of proposal to suspend</p> <p>11 you?</p> <p>12 A. Well, this would -- this serves as my</p> <p>13 written response to the March 18th notice.</p> <p>14 Q. March 17, 2008 notice of proposal to</p> <p>15 suspend?</p> <p>16 A. Okay, but I received it on the 18th,</p> <p>17 according to this notation.</p> <p>18 Q. Okay.</p> <p>19 A. Oh, but you are referring to it as</p> <p>20 the March 17th -- okay.</p> <p>21 Q. Yes. As I said, I'm just going to</p> <p>22 refer to the proposal as the March 17, 2008?</p> <p>23 A. Certainly.</p> <p>24 Q. Okay. So I'm going to refer to</p> <p>25 what's been marked as Defendant's Exhibit 5 as</p>	<p>1 R. Figueroa</p> <p>2 MR. LYNCH: You can read the question</p> <p>3 and answer back.</p> <p>4 (Record read.)</p> <p>5 Q. Okay. When you are saying that for</p> <p>6 one thing when you are walking in the hallway</p> <p>7 Chief Rios was looking at you, what day are</p> <p>8 you referring to?</p> <p>9 A. I can't tell you a specific day.</p> <p>10 Q. As best you can recall, around what</p> <p>11 time period are you referring to when you are</p> <p>12 saying that Chief Rios was looking at you</p> <p>13 essentially funny?</p> <p>14 A. Well, this all began after the</p> <p>15 December 29, 2007 incident.</p> <p>16 MR. WOLIN: I'm confused now.</p> <p>17 MR. LYNCH: Yes.</p> <p>18 MR. WOLIN: Your question was</p> <p>19 Sachdeva -- and he is talking about -- and now</p> <p>20 you are talking about Rios.</p> <p>21 MR. LYNCH: You want to just read my</p> <p>22 question back one more time?</p> <p>23 Q. Let me just ask it again. I'm asking</p> <p>24 you from what you wrote in this April 18, 2008</p> <p>25 e-mail response, how at the time that you</p>
Page 162	Page 164
<p>1 R. Figueroa</p> <p>2 your April 8, 2008 e-mail response, okay?</p> <p>3 A. Yes.</p> <p>4 Q. All right. And again, this April 18,</p> <p>5 2008, e-mail response marked Defendant's</p> <p>6 Exhibit 5, that's what you provided in</p> <p>7 response to this March 17, 2008 notice of</p> <p>8 proposal to suspend you; correct?</p> <p>9 A. Yes.</p> <p>10 Q. Now, in your April 18, 2008 e-mail</p> <p>11 response marked Defendant's Exhibit 5, you</p> <p>12 claim that Ms. Sachdeva had "created a hostile</p> <p>13 work environment that I am a target of in</p> <p>14 order to distance herself from her actions."</p> <p>15 Can you explain at the time that you</p> <p>16 wrote this April 18, 2008 e-mail response how</p> <p>17 had Ms. Sachdeva created a, as you say,</p> <p>18 hostile work environment for you?</p> <p>19 A. Well, for one thing, as I'm walking</p> <p>20 in the hallways, Chief Rios is looking at me</p> <p>21 with distortions in her face and uttering</p> <p>22 under her breath, and there is no one else</p> <p>23 around.</p> <p>24 MR. WOLIN: Can I ask to have the</p> <p>25 question repeated?</p>	<p>1 R. Figueroa</p> <p>2 wrote this April 18, 2008 e-mail response, how</p> <p>3 had Ms. Sachdeva created a hostile work</p> <p>4 environment for you?</p> <p>5 A. Well, she is writing me up on a</p> <p>6 charge that I think is unwarranted. The other</p> <p>7 supervisors are treating me differently now,</p> <p>8 they are being stern with me, where they</p> <p>9 weren't before.</p> <p>10 Q. Okay.</p> <p>11 A. Other supervisors are telling me, you</p> <p>12 know, to watch out, that they are coming after</p> <p>13 you.</p> <p>14 Q. Okay. Well, when are you alleging</p> <p>15 that other supervisors began treating you</p> <p>16 differently?</p> <p>17 A. Well, they wouldn't assist me if I</p> <p>18 needed it.</p> <p>19 Q. Okay, but I'm asking you when?</p> <p>20 Specifics?</p> <p>21 A. Oh, when?</p> <p>22 Q. Yes.</p> <p>23 A. It all began after the December 29th</p> <p>24 incident.</p> <p>25 Q. So you are saying after the December</p>

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
193-196

<p style="text-align: right;">Page 193</p> <p>1 R. Figueroa</p> <p>2 through and they'll let you in."</p> <p>3 Not I'd love to do it for you but I</p> <p>4 don't have my card with me to let you in.</p> <p>5 As a matter of fact, he went for his</p> <p>6 card to let me in and then he said, you know</p> <p>7 what, I'm not going to let you in."</p> <p>8 He put his card back, that's how I</p> <p>9 knew he had it.</p> <p>10 Q. Did you have a follow-up with him as</p> <p>11 to why you won't let me in at that point?</p> <p>12 A. No, well, it's pretty obvious.</p> <p>13 Q. What was pretty obvious?</p> <p>14 A. If you are not letting me in, you are</p> <p>15 basically tell me to go jump in a lake, I'm</p> <p>16 not letting you in.</p> <p>17 Q. So after supervisor Mattina told you</p> <p>18 that he wouldn't let you into the detention</p> <p>19 room in January of 2008, what happened next?</p> <p>20 A. I waited until somebody came,</p> <p>21 somebody who was assigned to the detention</p> <p>22 room, because they have access, and they</p> <p>23 opened up the door, I got my keys and I went</p> <p>24 and began my work.</p> <p>25 Q. And how long did this incident with</p>	<p style="text-align: right;">Page 195</p> <p>1 R. Figueroa</p> <p>2 Once again, it's the poisoning of the</p> <p>3 well. Ms. Sachdeva is creating a hostile work</p> <p>4 environment for me.</p> <p>5 Q. But what I'm not clear about focusing</p> <p>6 on supervisor Mattina is just how did you come</p> <p>7 to believe that it was based on this poisoning</p> <p>8 of the well from Sachdeva?</p> <p>9 A. Well, what other reason would you</p> <p>10 deny me access to a room that you have access</p> <p>11 for? You are a supervisor. You are supposed</p> <p>12 to see to it that I get to my work, and if I'm</p> <p>13 having some sort of a problem to get to my</p> <p>14 assignment, it is incumbent upon you to</p> <p>15 rectify that problem so that I can get to my</p> <p>16 job.</p> <p>17 You are supposed to do everything in</p> <p>18 your power to see to it that your employees</p> <p>19 are doing their jobs, and you are telling me</p> <p>20 no, you are not going to open the door for me?</p> <p>21 I'll have to wait until somebody else does it</p> <p>22 for me?</p> <p>23 What other explanation on God's green</p> <p>24 earth could there possibly be for that kind of</p> <p>25 disrespect?</p>
<p style="text-align: right;">Page 194</p> <p>1 R. Figueroa</p> <p>2 supervisor Mattina take back in January of</p> <p>3 2008?</p> <p>4 A. Again, a matter of seconds.</p> <p>5 Q. And prior to that day in January of</p> <p>6 2008, had you had any issues or conflicts, so</p> <p>7 to speak, with supervisor Mattina?</p> <p>8 A. No.</p> <p>9 Q. And why do you believe that this</p> <p>10 incident that took place with supervisor</p> <p>11 Mattina in January of 2008 had anything to do</p> <p>12 with what happened between you and Ms.</p> <p>13 Sachdeva on December 29, 2007?</p> <p>14 A. Because exactly what you just said,</p> <p>15 we worked in baggage and we never had a</p> <p>16 problem.</p> <p>17 Now, he is working in mail and we had</p> <p>18 a good relationship and the incident with</p> <p>19 Sachdeva takes place, and now you are not even</p> <p>20 going to let me into this room and you have</p> <p>21 access and you are standing in front of the</p> <p>22 door, it takes two seconds so that I can get</p> <p>23 my keys and begin my work?</p> <p>24 What other reasonable explanation</p> <p>25 could there possibly be?</p>	<p style="text-align: right;">Page 196</p> <p>1 R. Figueroa</p> <p>2 Q. Okay. So you felt disrespected when</p> <p>3 supervisor Mattina told you he wasn't going to</p> <p>4 let you in?</p> <p>5 A. I certainly did, and I think anybody</p> <p>6 else in my situation would have felt the same</p> <p>7 way. I've got the access to let in you that</p> <p>8 door and I'm telling you I'm not going to do</p> <p>9 it for you and I in fact don't and I turn</p> <p>10 around and walk away from you. Yes, I do.</p> <p>11 Q. All right. So I'm just going to</p> <p>12 refer back to the April 18, 2008 e-mail</p> <p>13 response, it's marked Defendant's Exhibit 5.</p> <p>14 Okay, and I'm focusing on the third</p> <p>15 paragraph in your April 18, 2008 e-mail</p> <p>16 response. And in it you claim Ms. Sachdeva</p> <p>17 had "made numerous unwanted overtures towards</p> <p>18 me, referring to you, that can only be</p> <p>19 classified as improper."</p> <p>20 Can you tell me exactly what were</p> <p>21 these numerous unwanted overtures that you are</p> <p>22 referring to?</p> <p>23 A. Ms. Sachdeva was batting her eyes at</p> <p>24 me, constantly smiling at me. When I'm</p> <p>25 sitting down having lunch, she will sit right</p>

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
209-212

<p style="text-align: right;">Page 209</p> <p>1 R. Figueroa</p> <p>2 seductively towards you, how long did this</p> <p>3 entire incident take place?</p> <p>4 A. The first time?</p> <p>5 Q. The first time.</p> <p>6 A. Just the two or three seconds that I</p> <p>7 stated before, then she got up, walked over to</p> <p>8 give me access, and while she is walking to</p> <p>9 give me -- she turned around at least two</p> <p>10 times to look at me to see what I was doing, I</p> <p>11 don't know. To see what my demeanor was, I</p> <p>12 don't know, but she just turned around two</p> <p>13 times to look at me.</p> <p>14 Q. And you felt when Ms. Sachdeva turned</p> <p>15 around twice to look at you, as she walked to</p> <p>16 take you to the detention room area, that this</p> <p>17 was a seductive look?</p> <p>18 A. That's the only way that I can</p> <p>19 describe it.</p> <p>20 Q. And as Ms. Sachdeva looked twice at</p> <p>21 you, as the two of you were walking towards</p> <p>22 the detention room area, did you say anything</p> <p>23 to her?</p> <p>24 A. No.</p> <p>25 Q. Anything else happen to you that day</p>	<p style="text-align: right;">Page 211</p> <p>1 R. Figueroa</p> <p>2 that the supervisor wanted her where he was</p> <p>3 standing, on that side of the mail facility.</p> <p>4 So once again, I walked in and</p> <p>5 disregarding the first incident, just writing</p> <p>6 the that off as maybe a fluke and/or some kind</p> <p>7 of an unexplainable happenstance and I walked</p> <p>8 in and I told her that a supervisor needed her</p> <p>9 and I was met with the same response.</p> <p>10 Q. When you say you were met with the</p> <p>11 same response, tell me specifically what</p> <p>12 happened?</p> <p>13 A. Just like I explained the first time,</p> <p>14 the batting of the eyes, the smiles, the</p> <p>15 looking at me up and down again.</p> <p>16 MR. LYNCH: Can you just read his</p> <p>17 answer back?</p> <p>18 (Answer read.)</p> <p>19 Q. And how long did this incident take</p> <p>20 place with you and Ms. Sachdeva, that was the</p> <p>21 second one that took place in October/November</p> <p>22 of 2006?</p> <p>23 A. Approximately the same amount of</p> <p>24 time.</p> <p>25 Q. When you say "approximately the same</p>
<p style="text-align: right;">Page 210</p> <p>1 R. Figueroa</p> <p>2 between you and Ms. Sachdeva?</p> <p>3 A. No.</p> <p>4 Q. So then tell me about the next</p> <p>5 incident with her where you believe she was</p> <p>6 batting her eyes at you?</p> <p>7 A. Well, this happens a little time</p> <p>8 later.</p> <p>9 Q. Okay?</p> <p>10 A. Now, when I say a little time, I mean</p> <p>11 maybe a few weeks later, three or four weeks</p> <p>12 later.</p> <p>13 Q. Okay. Was that still in September or</p> <p>14 was it in October?</p> <p>15 A. No, it had to have been in October or</p> <p>16 maybe even the beginning of November.</p> <p>17 Q. Okay. So sometime in October or</p> <p>18 November of 2006 there is another incident</p> <p>19 with you and Ms. Sachdeva where you say she is</p> <p>20 batting her eyes at you again?</p> <p>21 A. Yes.</p> <p>22 Q. Tell me about that incident?</p> <p>23 A. Once again, I had to go get her for</p> <p>24 something, this time I think a supervisor sent</p> <p>25 me to the office to get her and to tell her</p>	<p style="text-align: right;">Page 212</p> <p>1 R. Figueroa</p> <p>2 amount of time," how much time?</p> <p>3 A. Two, three, seconds.</p> <p>4 Q. So what happened next when you say</p> <p>5 that she was batting her eyes looking you up</p> <p>6 an down when you told her that a supervisor</p> <p>7 needed to see her? What happened next?</p> <p>8 A. Well, once again, she got up from the</p> <p>9 chair, went to go let herself into the --</p> <p>10 through that door that allows her access to</p> <p>11 the mail floor, and I was heading back to my</p> <p>12 post.</p> <p>13 And once again, she turned around,</p> <p>14 looked at me again two more times until we</p> <p>15 separated, and she went her way and I went</p> <p>16 mine.</p> <p>17 Q. And you believe in this second</p> <p>18 occasion that took place in October,</p> <p>19 November 2006, that when she looked back at</p> <p>20 you two or three times that this was</p> <p>21 seductively?</p> <p>22 A. Yes.</p> <p>23 Q. And why so?</p> <p>24 A. Well, you know, I've been in</p> <p>25 situations where I followed people to other</p>

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
213-216

<p style="text-align: right;">Page 213</p> <p>1 R. Figueroa</p> <p>2 places and no one's ever looked back to see</p> <p>3 what I was doing on anything.</p> <p>4 I've walked people into places and</p> <p>5 I've never looked back to examine them. I</p> <p>6 just -- maybe I'll hold a door open and I'll</p> <p>7 slant my head a little bit to make sure that</p> <p>8 the door isn't being shut on you, but I'll</p> <p>9 continue walking to wherever it is that I'm</p> <p>10 going.</p> <p>11 Q. Okay. During either this first</p> <p>12 incident with Ms. Sachdeva in September of</p> <p>13 2006 or the second one that took place in</p> <p>14 October/November 2006, are there any other</p> <p>15 witnesses besides you and her?</p> <p>16 A. No, I don't believe so.</p> <p>17 Q. All right. And can you tell me any</p> <p>18 other instances with you and Ms. Sachdeva</p> <p>19 where you believe that she was batting her</p> <p>20 eyes and looking seductively?</p> <p>21 We already talked about two, were</p> <p>22 there any others that you remember?</p> <p>23 A. When I would have my lunch and she</p> <p>24 would walk in, sit down next to me and lean</p> <p>25 over, look to see what it is that I'm having.</p>	<p style="text-align: right;">Page 215</p> <p>1 R. Figueroa</p> <p>2 A. Okay. It's a large room, pretty</p> <p>3 much -- approximately the size of this one,</p> <p>4 okay. It's got a couple of tables, eating</p> <p>5 tables.</p> <p>6 Q. What kind of tables? Round?</p> <p>7 Rectangular?</p> <p>8 A. Folding leg type tables, you know,</p> <p>9 wood top.</p> <p>10 Q. Are they round? Rectangle?</p> <p>11 A. Rectangle.</p> <p>12 Q. Rectangle. How many can these tables</p> <p>13 seat?</p> <p>14 A. On one side possibly three or four</p> <p>15 people. So another person on each end, and</p> <p>16 maybe another three or four people on the</p> <p>17 other side.</p> <p>18 Q. Okay. So approximately 8 to 10</p> <p>19 people per table?</p> <p>20 A. I would say so.</p> <p>21 Q. How many rectangle tables were there</p> <p>22 in the lunchroom area in the JFK facility back</p> <p>23 in 2006?</p> <p>24 A. There were -- I believe there were</p> <p>25 two rows of tables.</p>
<p style="text-align: right;">Page 214</p> <p>1 R. Figueroa</p> <p>2 Q. Okay. Well, when was the first time</p> <p>3 that you recall sitting down in the lunchroom</p> <p>4 area and having your lunch, and Ms. Sachdeva</p> <p>5 sitting close to you?</p> <p>6 A. It was shortly after that second trip</p> <p>7 to the door when the supervisor asked me to go</p> <p>8 get her.</p> <p>9 Q. Okay. So can you tell me when though</p> <p>10 in 2006 that took place?</p> <p>11 A. No, I couldn't tell you when, but it</p> <p>12 didn't -- it wasn't too long thereafter.</p> <p>13 Q. Okay. So why don't you tell me about</p> <p>14 this incident the first time that you sat in</p> <p>15 the lunchroom and Ms. Sachdeva sat close to</p> <p>16 you? I want everything that you can recall</p> <p>17 about the first time this occurred?</p> <p>18 A. Well, I was sitting at a table pretty</p> <p>19 much like this one here and I was having my</p> <p>20 lunch, and Ms. Sachdeva comes on my left side,</p> <p>21 sits in a chair that's next to me and she is</p> <p>22 sitting very, very close.</p> <p>23 Q. So let's backup. Describe how the</p> <p>24 lunchroom area in the JFK facility looked back</p> <p>25 in 2006?</p>	<p style="text-align: right;">Page 216</p> <p>1 R. Figueroa</p> <p>2 Q. Two rows of tables. So is that two</p> <p>3 tables?</p> <p>4 A. No, two tables side by side in one</p> <p>5 row, and another two tables side by side in a</p> <p>6 second row.</p> <p>7 Q. So four tables total?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. So back in 2006 in the CBP</p> <p>10 lunchroom area, we had four rectangle tables</p> <p>11 in the lunchroom?</p> <p>12 A. Yes.</p> <p>13 Q. Approximately how large was the</p> <p>14 lunchroom back in 2006?</p> <p>15 A. Approximately the size of this room.</p> <p>16 So whatever -- maybe it was a little longer.</p> <p>17 Q. Okay.</p> <p>18 A. But it was not a small room. It's</p> <p>19 not a small place. Plenty of elbow room,</p> <p>20 plenty of room to sit in other places.</p> <p>21 Q. And the first time in 2006 when you</p> <p>22 say you were sitting in the lunchroom area and</p> <p>23 Ms. Sachdeva sat close to you, tell me exactly</p> <p>24 what you mean by that?</p> <p>25 A. Well, I was sitting at the table</p>

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
221-224

<p style="text-align: right;">Page 221</p> <p>1 R. Figueroa</p> <p>2 to you in the lunchroom, this is in 2006, I</p> <p>3 want to make sure I'm clear. When she came up</p> <p>4 next to you, was she actually touching you?</p> <p>5 I understand you say she is near your</p> <p>6 personal space, but was she actually touching</p> <p>7 you?</p> <p>8 A. Yes, her body was -- the side of her</p> <p>9 body was pressed up against the side of mine.</p> <p>10 Q. Well, did you say anything to Ms.</p> <p>11 Sachdeva at that point when the side of her</p> <p>12 body was pressing up against yours back in</p> <p>13 2006 when you were in the lunchroom?</p> <p>14 A. No. I mean, I was in complete shock.</p> <p>15 I answered her question as to where I got my</p> <p>16 lunch. And that was it.</p> <p>17 Q. So what exactly did you say to her in</p> <p>18 terms of where you got your lunch?</p> <p>19 A. Well, she asked me where I got it and</p> <p>20 there was a salad bar on Farmers Boulevard.</p> <p>21 So I told her "I got it at the salad bar on</p> <p>22 Farmers Boulevard."</p> <p>23 Q. Tell me in sum and substance the</p> <p>24 entire conversation?</p> <p>25 A. Pretty much that's it. She slid</p>	<p style="text-align: right;">Page 223</p> <p>1 R. Figueroa</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And during this first</p> <p>4 encounter in 2006 in the lunchroom other than</p> <p>5 sitting very close to you and asking you what</p> <p>6 you had for lunch, anything else that Ms.</p> <p>7 Sachdeva did that you can recall during that</p> <p>8 first encounter?</p> <p>9 A. No, that was it.</p> <p>10 Q. So when did this second encounter</p> <p>11 between you and Ms. Sachdeva in the CBP</p> <p>12 lunchroom take place?</p> <p>13 A. Shortly thereafter, I'd say within a</p> <p>14 week.</p> <p>15 Q. Okay, but when was that? Was that</p> <p>16 still in 2006?</p> <p>17 A. It was still 2006, yes.</p> <p>18 Q. So tell me about the second encounter</p> <p>19 in that lunchroom between you and Ms.</p> <p>20 Sachdeva, what happened?</p> <p>21 A. It was almost identical to the first.</p> <p>22 She came on my left side, sat in a chair, she</p> <p>23 didn't slide over this time, because the chair</p> <p>24 was already close to me. She sat in the</p> <p>25 chair, but it wasn't bothering me.</p>
<p style="text-align: right;">Page 222</p> <p>1 R. Figueroa</p> <p>2 over, leaned into me, said "oh, what do you</p> <p>3 got there and where did you get that?"</p> <p>4 "The salad bar at Farmers Boulevard."</p> <p>5 Q. So this first lunchroom incident with</p> <p>6 Ms. Sachdeva, this took place in 2006?</p> <p>7 A. Yes.</p> <p>8 Q. And how long did this first encounter</p> <p>9 with Ms. Sachdeva in the lunchroom where you</p> <p>10 say she sat unusually close to you, how long</p> <p>11 did that take?</p> <p>12 A. Seconds, less than 10 seconds, but</p> <p>13 nowhere near two or three.</p> <p>14 Q. How many encounters total did you</p> <p>15 have with Ms. Sachdeva in the lunchroom in the</p> <p>16 CBP lunchroom area?</p> <p>17 A. Three.</p> <p>18 Q. So there were three total?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. So this first one lasted no</p> <p>21 more than 20 seconds?</p> <p>22 A. Oh, definitely, yeah, no more than</p> <p>23 20. I'd say really no more than 10 seconds.</p> <p>24 Q. This first encounter took place in</p> <p>25 2006 sometime after September; correct?</p>	<p style="text-align: right;">Page 224</p> <p>1 R. Figueroa</p> <p>2 Q. Why wasn't it bothering you?</p> <p>3 A. It was close to me, but it wasn't so</p> <p>4 close to me that oh, Geez, let me move this</p> <p>5 away because it's -- you know, I don't feel</p> <p>6 like I have any elbow room. So it was close</p> <p>7 to me, but not close to me to the point where</p> <p>8 it bothered me.</p> <p>9 Q. So the first encounter in the</p> <p>10 lunchroom you felt she sat unusually close to</p> <p>11 you?</p> <p>12 A. Yes.</p> <p>13 Q. But in the second lunch encounter</p> <p>14 with Ms. Sachdeva in 2006, you felt that she</p> <p>15 was at an appropriate distance?</p> <p>16 A. Oh, no, no, that is not what I said.</p> <p>17 Q. Okay.</p> <p>18 A. I said when I sat down at the table</p> <p>19 there was a chair next to me, but it wasn't</p> <p>20 too close to me, so I left the chair there, I</p> <p>21 didn't move the chair away from me.</p> <p>22 Then Ms. Sachdeva walks into the</p> <p>23 room, sees me there again, sits in the chair</p> <p>24 this time and moves it over.</p> <p>25 Q. Okay. And this second lunchroom</p>

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
225-228

<p style="text-align: right;">Page 225</p> <p>1 R. Figueroa</p> <p>2 encounter with Ms. Sachdeva in 2006, was</p> <p>3 anybody else in the lunchroom when it took</p> <p>4 place?</p> <p>5 A. No, there were people in the</p> <p>6 lunchroom, yes, I don't remember who they</p> <p>7 were.</p> <p>8 Q. How many people do you recall being</p> <p>9 in the lunchroom area?</p> <p>10 A. A few, like two, three, four maybe.</p> <p>11 Q. During the second lunchroom encounter</p> <p>12 there are approximately two to three other CBP</p> <p>13 folks besides you and Ms. Sachdeva in the</p> <p>14 lunchroom; correct?</p> <p>15 A. Yes.</p> <p>16 Q. So tell me what exactly happened in</p> <p>17 this second lunchroom encounter?</p> <p>18 A. It was an almost identical encounter</p> <p>19 to the first. She moved over, once again, she</p> <p>20 leaned over me, asked me what I was having for</p> <p>21 lunch, didn't ask me where I got it this time.</p> <p>22 Q. Okay. And what were you having for</p> <p>23 lunch?</p> <p>24 A. I don't remember, probably some</p> <p>25 vegetables and chicken, something -- nothing,</p>	<p style="text-align: right;">Page 227</p> <p>1 R. Figueroa</p> <p>2 Then she just looked at me and then</p> <p>3 walked away.</p> <p>4 Q. And how long did this second</p> <p>5 lunchroom encounter with Ms. Sachdeva take</p> <p>6 place?</p> <p>7 A. Approximately the same amount of</p> <p>8 time.</p> <p>9 Q. Which was how long?</p> <p>10 A. About 10 seconds.</p> <p>11 Q. So the second lunchroom encounter</p> <p>12 with you and Ms. Sachdeva, that incident took</p> <p>13 no more than 10 seconds?</p> <p>14 A. Right.</p> <p>15 Q. And other than asking you what you</p> <p>16 had for lunch and you telling Ms. Sachdeva</p> <p>17 what you had for lunch, nothing else</p> <p>18 transpired?</p> <p>19 A. No, I mean -- I was a little shocked</p> <p>20 as to why she even asked, because you can</p> <p>21 plainly see what I'm having. If it was</p> <p>22 chicken, it's chicken.</p> <p>23 Q. So you felt there was no reason that</p> <p>24 she really should even have been asking you</p> <p>25 what you had for lunch?</p>
<p style="text-align: right;">Page 226</p> <p>1 R. Figueroa</p> <p>2 it wasn't Peking Duck, I'll tell you that. It</p> <p>3 wasn't anything out of the ordinary where it</p> <p>4 would arouse someone's interest.</p> <p>5 And, you know, once again she said</p> <p>6 "Oh, what are you having for lunch?"</p> <p>7 You know, I told her.</p> <p>8 Q. What did you tell her?</p> <p>9 A. I forgot, whatever it was, chicken,</p> <p>10 you know.</p> <p>11 I wasn't encouraging this kind of</p> <p>12 behavior, so I wasn't engaging in any</p> <p>13 welcoming banter between the two of us.</p> <p>14 Q. But you don't recall specifically</p> <p>15 what you told her in response when she said</p> <p>16 what are you having for lunch?</p> <p>17 A. Well, I told her what I was having</p> <p>18 for lunch, but I don't remember what it was.</p> <p>19 Q. You don't remember exactly what you</p> <p>20 told her that you had for lunch?</p> <p>21 A. Right.</p> <p>22 Q. So after you told Ms. Sachdeva what</p> <p>23 you had for lunch during that second lunchroom</p> <p>24 encounter, what else occurred?</p> <p>25 A. She said "looks good."</p>	<p style="text-align: right;">Page 228</p> <p>1 R. Figueroa</p> <p>2 A. No, I mean judging from where she</p> <p>3 was, I think she can completely see, because</p> <p>4 my container was the clear plastic container</p> <p>5 that you get at salad bars, you can clearly</p> <p>6 see what I'm having, you don't have to get</p> <p>7 that close to tell what's in it.</p> <p>8 Q. Okay. And so, did you feel during</p> <p>9 the second lunchroom encounter with Ms.</p> <p>10 Sachdeva that your personal space had been</p> <p>11 invaded?</p> <p>12 A. Oh, yes.</p> <p>13 Q. And why did you feel your personal</p> <p>14 space had been invaded for that second</p> <p>15 lunchroom encounter?</p> <p>16 A. Because once again she was so close</p> <p>17 that I couldn't continue eating.</p> <p>18 Q. When you say she was so close that</p> <p>19 you couldn't continue eating, what exactly did</p> <p>20 you mean by that? Because that means</p> <p>21 different things to different people?</p> <p>22 A. Once again, she was right up on top</p> <p>23 of me.</p> <p>24 Q. When you say "right up on top of me,"</p> <p>25 describe what you mean during that second</p>

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
229-232

<p style="text-align: right;">Page 229</p> <p>1 R. Figueroa</p> <p>2 lunchroom encounter when you say "she was</p> <p>3 right up on top of me?"</p> <p>4 A. Well, this isn't, made to sound, you</p> <p>5 know, funny or anything, but I'm telling you,</p> <p>6 you couldn't slip an envelope between the two</p> <p>7 of us, there was just no room.</p> <p>8 Q. Was her body touching yours during</p> <p>9 the second lunchroom encounter in 2006?</p> <p>10 A. Yes, it was.</p> <p>11 Q. What part of her body was touching</p> <p>12 yours?</p> <p>13 A. Her chest, her torso and her -- the</p> <p>14 side of her arm.</p> <p>15 Q. What side of her torso and arm was</p> <p>16 touching yours?</p> <p>17 A. The right side.</p> <p>18 Q. So the right side of her torso and</p> <p>19 arm were touching your body?</p> <p>20 A. Yes.</p> <p>21 Q. What part of your body was the right</p> <p>22 side of her torso and arm touching when she</p> <p>23 sat next to you during the second lunchroom</p> <p>24 encounter in 2006?</p> <p>25 A. Here on my left. Like where the</p>	<p style="text-align: right;">Page 231</p> <p>1 R. Figueroa</p> <p>2 say something that would encourage her, what</p> <p>3 do you mean?</p> <p>4 A. Well, I didn't say anything like,</p> <p>5 "Oh, you are leaving so soon"?</p> <p>6 I definitely didn't say anything</p> <p>7 along those lines.</p> <p>8 Q. So --</p> <p>9 A. And I wasn't going to ask her a</p> <p>10 question about work, you know, something that</p> <p>11 I may have had on my mind, because then she</p> <p>12 would have stayed there.</p> <p>13 Q. So did you feel uncomfortable during</p> <p>14 the second lunchroom encounter?</p> <p>15 A. Yes, I did.</p> <p>16 Q. Did you ever tell Ms. Sachdeva during</p> <p>17 that second lunchroom encounter that you felt</p> <p>18 uncomfortable with her sitting next to you?</p> <p>19 A. No, I did not.</p> <p>20 Q. And why not?</p> <p>21 A. Because once again, she asked what I</p> <p>22 was having for lunch and I said,</p> <p>23 matter-of-factly in a very cold and distanced</p> <p>24 way, "chicken" if it was chicken, so she would</p> <p>25 -- so that anyone would get the idea, you</p>
<p style="text-align: right;">Page 230</p> <p>1 R. Figueroa</p> <p>2 crevice between my arm and my chest is, right</p> <p>3 here on the left side.</p> <p>4 Q. Okay. Well, tell me, how were your</p> <p>5 arms exactly positioned when you were having</p> <p>6 lunch during the second lunchroom encounter?</p> <p>7 A. My hands were on the table, so when</p> <p>8 she came over and slid over, my left hand</p> <p>9 dropped, because I didn't know what she was</p> <p>10 doing, I thought that, you know, maybe she is</p> <p>11 going to find something -- maybe she is</p> <p>12 looking for something on the floor, I don't</p> <p>13 know, so I was going to help her if that was</p> <p>14 the case.</p> <p>15 But when I saw it was a repeat of the</p> <p>16 last one, you know, actually I'm looking</p> <p>17 around to see if anybody is looking at this.</p> <p>18 No one walked in. No one walked in, and by</p> <p>19 the time, you know, I'm recollecting myself,</p> <p>20 you know, the whole thing started to end.</p> <p>21 So I just kept my mouth shut, because</p> <p>22 I didn't want to say something that would</p> <p>23 encourage her to sit back down and start it up</p> <p>24 all over again.</p> <p>25 Q. Well, when you say you didn't want to</p>	<p style="text-align: right;">Page 232</p> <p>1 R. Figueroa</p> <p>2 know, you are bothering me.</p> <p>3 Q. And for the first lunchroom encounter</p> <p>4 with Ms. Sachdeva that also took place in</p> <p>5 2006, did you feel uncomfortable when she sat</p> <p>6 next to you?</p> <p>7 A. Yes.</p> <p>8 Q. So why didn't you tell her during</p> <p>9 that first lunchroom encounter that you felt</p> <p>10 uncomfortable with her sitting so close to</p> <p>11 you?</p> <p>12 A. Because these things happened so</p> <p>13 quickly. First of all, you are not expecting</p> <p>14 it to happen, because once again I'm eating</p> <p>15 lunch, I'm watching TV and then something like</p> <p>16 this happens out of the blue. You know, it's</p> <p>17 not often that, you know, a gentleman is</p> <p>18 having lunch and a lady is thrown into his lap</p> <p>19 practically. So it's shocking.</p> <p>20 And then we are at work, and it's</p> <p>21 like don't you realize that if you do</p> <p>22 something -- I'm thinking to myself, that if</p> <p>23 you do something like this we are going to be</p> <p>24 talked about? We are going to be the subject</p> <p>25 of gossip?</p>

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
233-236

<p style="text-align: right;">Page 233</p> <p>1 R. Figueroa</p> <p>2 Q. Well, were you and Ms. Sachdeva the</p> <p>3 subject of gossip?</p> <p>4 A. No.</p> <p>5 Q. So why don't you tell me about this</p> <p>6 third lunchroom encounter with you and Ms.</p> <p>7 Sachdeva? When did that take place?</p> <p>8 A. Well, once again, that took place</p> <p>9 shortly thereafter, I would estimate maybe</p> <p>10 two weeks later.</p> <p>11 Q. So that was also in 2006?</p> <p>12 A. Yes.</p> <p>13 Q. So what time of day in 2006 did this</p> <p>14 third lunchroom encounter with Ms. Sachdeva</p> <p>15 take place?</p> <p>16 A. It was break-time, so I'm thinking it</p> <p>17 might have been around 7:30. It could have</p> <p>18 been around one of the earlier break times,</p> <p>19 but my guess would be 7:30.</p> <p>20 Q. All right. So is it fair to say that</p> <p>21 for each of these lunchroom encounters that</p> <p>22 you had with Ms. Sachdeva that they took place</p> <p>23 after 5:00 p.m.; is that fair to say?</p> <p>24 A. Yes.</p> <p>25 Q. So why don't you tell me, let's talk</p>	<p style="text-align: right;">Page 235</p> <p>1 R. Figueroa</p> <p>2 A. Yes, but they were this way, they</p> <p>3 were standing. (Indicating.)</p> <p>4 Q. Okay. So you were sitting down</p> <p>5 eating your lunch for this third lunchroom</p> <p>6 encounter and Ms. Sachdeva was standing</p> <p>7 talking to two other officers?</p> <p>8 A. Yes.</p> <p>9 Q. And who are the two other officers</p> <p>10 that she was talking to?</p> <p>11 A. One of them was Officer Marguerite</p> <p>12 Caropolo.</p> <p>13 Q. And who were the other officers?</p> <p>14 A. I believe it could have been Helen</p> <p>15 Ashton again.</p> <p>16 Q. Okay. So besides you Ms. Sachdeva,</p> <p>17 Marguerite Caropolo and Helen Ashton, who else</p> <p>18 was in the lunchroom area for this third</p> <p>19 lunchroom encounter?</p> <p>20 A. I don't know.</p> <p>21 Q. Okay. So Ms. Sachdeva is standing</p> <p>22 talking to officers Marguerite Caropolo and</p> <p>23 Helen Ashton, you are eating your lunch</p> <p>24 sitting down at the table?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 234</p> <p>1 R. Figueroa</p> <p>2 about this third lunchroom incident with Ms.</p> <p>3 Sachdeva, can you tell me what happened?</p> <p>4 Let's just backup. For that third</p> <p>5 lunchroom encounter, how did it begin?</p> <p>6 A. Well, I was eating my lunch at the</p> <p>7 table again, but this time I'm a little bit</p> <p>8 further down, I'm down towards the middle of</p> <p>9 the table.</p> <p>10 Q. Okay. Were you having your lunch</p> <p>11 with anyone at that time?</p> <p>12 A. No, no.</p> <p>13 Q. Do you recall what you were having</p> <p>14 for lunch?</p> <p>15 A. No, but once again, it would have</p> <p>16 been something very benign.</p> <p>17 Q. Okay.</p> <p>18 A. This time she was talking to two</p> <p>19 other officers.</p> <p>20 Q. Okay. And when you say she was</p> <p>21 talking to two other officers, was Ms.</p> <p>22 Sachdeva at the time you were having lunch for</p> <p>23 that third lunchroom encounter, was she</p> <p>24 talking to two other officers in the</p> <p>25 lunchroom?</p>	<p style="text-align: right;">Page 236</p> <p>1 R. Figueroa</p> <p>2 Q. What happens next?</p> <p>3 A. Almost a repeat from the first</p> <p>4 incident. She walks over quickly, slides into</p> <p>5 the chair that's next to me and leans over and</p> <p>6 once again inquires about my lunch, and then</p> <p>7 asked me where I got it, but this time she put</p> <p>8 her hand on my right inner thigh.</p> <p>9 Q. So let's talk about that. Tell me</p> <p>10 how exactly did it transpire that Ms. Sachdeva</p> <p>11 put her hand on your right thigh?</p> <p>12 A. Because when she slid into the chair,</p> <p>13 she was -- even though her legs were still</p> <p>14 facing forward as she was sitting in the</p> <p>15 chair, her body was twisted to the point that</p> <p>16 now more of her upper torso is actually facing</p> <p>17 me. And as she leaned over, she put her right</p> <p>18 hand on my inner thigh. I mean, she put her</p> <p>19 hand on my right inner thigh.</p> <p>20 Q. Do you recall what hand Ms. Sachdeva</p> <p>21 used?</p> <p>22 A. I believe it was her right hand.</p> <p>23 Q. And what happened when she put her</p> <p>24 right hand on your right inner thigh?</p> <p>25 A. Well, at this point I was definitely</p>

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
237-240

<p style="text-align: right;">Page 237</p> <p>1 R. Figueroa</p> <p>2 going to say something, but I was chewing on</p> <p>3 something because she caught me at an awkward</p> <p>4 moment. So by the time I swallowed, she had</p> <p>5 already gotten up and left.</p> <p>6 Q. Well, tell me exactly how did Ms.</p> <p>7 Sachdeva place her hand on your right thigh?</p> <p>8 A. As she was in this position leaning</p> <p>9 over, her hand came over and rested on my</p> <p>10 right thigh.</p> <p>11 Q. So when her hand came over and rested</p> <p>12 on your right thigh, was she massaging your</p> <p>13 thigh? How exactly was it placed on your</p> <p>14 right thigh?</p> <p>15 A. No, I think she just kind of left it</p> <p>16 there. It did move a little, but I think it</p> <p>17 moved in response to her moving. It wasn't</p> <p>18 like a massage effort, at least I didn't</p> <p>19 perceive it to be that way.</p> <p>20 But her hand was on the inner</p> <p>21 portion, mid section of my right thigh.</p> <p>22 Q. And for how long of a period was it</p> <p>23 on the mid section of your inner right thigh?</p> <p>24 A. It honestly seemed forever, but I</p> <p>25 think in practicality, maybe a second or two.</p>	<p style="text-align: right;">Page 239</p> <p>1 R. Figueroa</p> <p>2 A. In response, you know, "the salad bar</p> <p>3 on Farmers Boulevard."</p> <p>4 Q. Now, did you say anything to Ms.</p> <p>5 Sachdeva over the fact that her hand had been</p> <p>6 on your right inner thigh?</p> <p>7 A. No, I was going to, but as I said,</p> <p>8 she caught me at an awkward moment.</p> <p>9 Q. And what was that awkward moment</p> <p>10 exactly?</p> <p>11 A. Well, not only did she catch me by</p> <p>12 surprise but, you know, I was chewing. So it</p> <p>13 wasn't like I was just sitting there watching</p> <p>14 TV that I could immediately speak.</p> <p>15 Q. Okay?</p> <p>16 A. It was all I can do to just say, you</p> <p>17 know, "the salad bar at Farmers Boulevard," I</p> <p>18 think I blurted that out.</p> <p>19 Q. But when she had asked you "that</p> <p>20 looks good, where did you get it"?</p> <p>21 And you answered her, you were eating</p> <p>22 at that point in time; correct?</p> <p>23 A. Yes.</p> <p>24 Q. So why didn't you also say anything</p> <p>25 to her? I understand you were eating still</p>
<p style="text-align: right;">Page 238</p> <p>1 R. Figueroa</p> <p>2 Q. And did Ms. Sachdeva say anything to</p> <p>3 you at the point that her hand was on your</p> <p>4 right inner thigh?</p> <p>5 A. No, not, oh, excuse me, that was a</p> <p>6 slip, I leaned forward, I was off balance,</p> <p>7 nothing, nothing.</p> <p>8 Q. So she didn't say anything to you?</p> <p>9 A. No. Well, once again, she asked me</p> <p>10 where I got my lunch.</p> <p>11 Q. Right, but I'm just saying when her</p> <p>12 hand was on your right inner thigh, did she</p> <p>13 say anything to you at that point?</p> <p>14 A. No.</p> <p>15 Q. Okay. At what point did she ask you</p> <p>16 when she got into a chair and slid it next to</p> <p>17 you and asked what you had for lunch? Was</p> <p>18 that before she put her hand on your right</p> <p>19 inner thigh?</p> <p>20 A. No, I think she looked over -- I</p> <p>21 think she said something -- she commented, I</p> <p>22 don't know what the comment was. Then she</p> <p>23 slid over, put her hand on my thigh and said</p> <p>24 "that looks good, where did you get that?"</p> <p>25 Q. And what did you say in response?</p>	<p style="text-align: right;">Page 240</p> <p>1 R. Figueroa</p> <p>2 when her hand was placed on your right thigh?</p> <p>3 A. There was no time, you know, with the</p> <p>4 amount of breath I had, you know, I'm getting</p> <p>5 ready to be in the process of chewing. There</p> <p>6 was just no time to get it out.</p> <p>7 Q. So when you finished chewing, what,</p> <p>8 if anything, did you say to her at that point?</p> <p>9 A. Well, I was about to say something</p> <p>10 when she got her hand off of my thigh and she</p> <p>11 started getting up and leaving.</p> <p>12 The other two women were looking at</p> <p>13 this, and their eyes were wide up and their</p> <p>14 jaws were wide open as well, they couldn't</p> <p>15 believe what they were seeing.</p> <p>16 Q. How do you know that they were</p> <p>17 responding to what took place between you and</p> <p>18 Ms. Sachdeva?</p> <p>19 A. There was nothing else that happened</p> <p>20 in that room that will cause someone to open</p> <p>21 up their eyes in amazement as well as open up</p> <p>22 their mouths in amazement.</p> <p>23 Q. So you are saying that both Ms.</p> <p>24 Marguerite Caropolo and Helen Ashton both saw</p> <p>25 Ms. Sachdeva place her hand on your right</p>

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
241-244

Page 241	Page 243
<p>1 R. Figueroa</p> <p>2 inner thigh?</p> <p>3 A. Right.</p> <p>4 Q. Okay. Did you ever speak to</p> <p>5 Marguerite Caropolo or Helen Ashton about what</p> <p>6 they saw during this third lunchroom encounter</p> <p>7 that you had with Ms. Sachdeva?</p> <p>8 A. Not with Officer Caropolo, with</p> <p>9 Officer Ashton.</p> <p>10 Q. Well, when did you speak with Ms.</p> <p>11 Ashton about this third lunchroom encounter?</p> <p>12 A. Later in the evening.</p> <p>13 Q. What time of the day?</p> <p>14 A. Approximately an hour or two later.</p> <p>15 So I would venture a guess and say around</p> <p>16 9:30-ish.</p> <p>17 Q. Okay. So tell me how long total did</p> <p>18 this third lunchroom encounter with Ms.</p> <p>19 Sachdeva take place? How long did that last?</p> <p>20 A. Again, another 10, 11 seconds maybe.</p> <p>21 Q. Now, at that point, this is now the</p> <p>22 third lunchroom encounter with you and Ms.</p> <p>23 Sachdeva, okay. At that point, why didn't you</p> <p>24 say something to her that you felt that either</p> <p>25 she was sitting very close to you, that there</p>	<p>1 R. Figueroa</p> <p>2 happen again, that she would place her hand on</p> <p>3 your thigh or any other more intimate part of</p> <p>4 your body?</p> <p>5 A. Well, no, because I started avoiding</p> <p>6 her. If someone said they wanted her, I said,</p> <p>7 "I'll tell you what, I'll wait here, you go</p> <p>8 get her yourself."</p> <p>9 Q. And at the point now in which you had</p> <p>10 this third lunchroom encounter where you say</p> <p>11 Ms. Sachdeva put her hand on your right thigh,</p> <p>12 did you report this to anyone in upper</p> <p>13 management in 2006?</p> <p>14 A. No.</p> <p>15 Q. Why not?</p> <p>16 A. Because I was hoping it would go</p> <p>17 away.</p> <p>18 Q. And other than these three lunchroom</p> <p>19 encounters with Ms. Sachdeva, did you have any</p> <p>20 other lunchroom encounters with her?</p> <p>21 A. No.</p> <p>22 Q. Was there ever any other occasion</p> <p>23 besides this one incident during the third</p> <p>24 lunchroom encounter where Ms. Sachdeva had put</p> <p>25 her hands on your thigh or any other part of</p>
Page 242	Page 244
<p>1 R. Figueroa</p> <p>2 was something that was bothering you about her</p> <p>3 invading your personal space? At that</p> <p>4 point -- this is now the third lunchroom</p> <p>5 encounter, why didn't you say anything to her</p> <p>6 at that point?</p> <p>7 A. This is an extremely embarrassing</p> <p>8 thing and --</p> <p>9 Q. What makes it extremely embarrassing?</p> <p>10 A. Well, you know, for a man to say that</p> <p>11 a woman is bothering him, where most guys will</p> <p>12 say Jesus, I wish I had that problem, it's a</p> <p>13 little bit embarrassing.</p> <p>14 And when that person is your</p> <p>15 supervisor, you are not exactly quite sure</p> <p>16 what to say, how to approach it and I've never</p> <p>17 had anything like that happen to me before.</p> <p>18 Q. But now at the point that in this</p> <p>19 third lunchroom encounter when Ms. Sachdeva</p> <p>20 puts her hand on your right thigh, why didn't</p> <p>21 you say something to her after that --</p> <p>22 A. Well, I thought I'd handle it in a</p> <p>23 less affront type of way, I stopped having</p> <p>24 lunch.</p> <p>25 Q. Were you concerned that it could</p>	<p>1 R. Figueroa</p> <p>2 your body that maybe you regarded as more</p> <p>3 intimate?</p> <p>4 A. No.</p> <p>5 Q. Now, you mentioned that you had</p> <p>6 spoken to Helen Ashton a few hours after this</p> <p>7 third lunchroom encounter.</p> <p>8 What did you speak to Ms. Ashton</p> <p>9 about specifically?</p> <p>10 A. Well, she brought it up.</p> <p>11 Q. Okay. What did she say?</p> <p>12 A. Something along the lines of "I see</p> <p>13 you are having company with your lunch these</p> <p>14 days."</p> <p>15 And I said, "Can you believe that?</p> <p>16 Can you believe how boldface and not caring</p> <p>17 that other people are in the room? That's</p> <p>18 incredible. If a man did that, he'd be</p> <p>19 arrested."</p> <p>20 Q. Is that what you said to Ms. Ashton?</p> <p>21 A. Yes.</p> <p>22 Q. And what did Ms. Ashton say in</p> <p>23 response?</p> <p>24 A. Something along the lines, "Oh, I'm</p> <p>25 telling you."</p>

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
245-248

Page 245

1 R. Figueroa
2 That was it. That was the whole
3 conversation.
4 Q. Well, did Ms. Ashton say that she saw
5 Ms. Sachdeva put her hand on your right inner
6 thigh?
7 A. No, but being as how she brought it
8 up, I know she was there, her jaw hit the
9 floor, I saw her seeing it, and then she
10 brought it up later, I didn't.
11 Q. Right. When you say she brought it
12 up, you haven't told me anything that said --
13 where she said that she saw Ms. Sachdeva put
14 her hand on your right thigh. So that's why I
15 want to be clear on what Ms. Ashton said to
16 you when you guys talked a few hours after
17 that third lunchroom encounter?
18 A. All she said to me was, "I see you
19 are having company with your lunch these
20 days."
21 Q. Anything else you can recall Ms.
22 Ashton saying to you a few hours after this
23 third lunchroom encounter besides "I see you
24 are having company with your lunch these
25 days"?

Page 246

1 R. Figueroa
2 A. No.
3 MR. LYNCH: Let's take 10 minutes.
4 (Recess taken.)
5 Q. Okay. All right.
6 Now, you also mentioned in this
7 April 18th, the 2008 e-mail response I'm still
8 referring to that's been marked Defendant's
9 Exhibit 5, okay.
10 And I'm just going to focus on that
11 third full paragraph where you indicate, "When
12 Ms. Sachdeva was rebuffed, I started
13 experiencing negative actions on the work
14 front at her request."
15 Can you just explain what you meant
16 when you say that when you started to rebuff
17 Ms. Sachdeva, how exactly did you rebuff Ms.
18 Sachdeva and what specific advances were you
19 rebuffing?
20 A. The lunchroom incidents. I did not
21 encourage her. If she asked me a question, I
22 answered her pointblank and dispassionately as
23 I possibly could.
24 I never, once again, encouraged her.
25 I never asked her out. I never did anything

Page 247

1 R. Figueroa
2 to further advance her actions.
3 Q. Okay. Now, you say that you never
4 did anything to ask Ms. Sachdeva out. So it
5 was your belief that she had a romantic
6 interest in you?
7 A. That is the only conclusion I can
8 come to.
9 Q. Okay. And at any point in 2006 or in
10 2007, did Ms. Sachdeva ever ask you out?
11 A. No.
12 Q. And you believe that the ways in
13 which you responded during the three lunchroom
14 encounters with Ms. Sachdeva and the way you
15 would answer her in response to questions in
16 a, as you say, a dispassionate manner, that
17 you are rebuffing so-to-speak her advances?
18 A. Without a doubt.
19 Q. Okay. Can you explain to me, and
20 again just focusing on this April 18, 2008
21 e-mail response, Defendant's Exhibit 5 that's
22 been marked, when you say that you started to
23 experience negative actions on the work front
24 at her bequest after rebuffing her advances,
25 as you say, what were the negative actions on

Page 248

1 R. Figueroa
2 the work front that you believe you experienced?
3 A. I was assigned to work holidays as a
4 senior member of the service when the contract
5 that the agency is required to adhere to was
6 completely disregarded.
7 I had supervisors not helping me when
8 I needed to.
9 I received hostile treatment by way
10 of angered faces and lack of support.
11 I was no longer eligible for
12 transfers, promotions or anything along those
13 lines. And I began to receive disciplinary
14 suspensions.
15 Q. Okay. Now, these three lunchroom
16 encounters took place in 2006. And when you
17 say that Ms. Sachdeva was batting her eyes at
18 you during two other incidents, those also
19 took place in 2006.
20 Now, you hadn't been assigned to work
21 the Thanksgiving holiday until that following
22 year in November of 2007, so what makes you
23 believe that the being assigned to work the
24 Thanksgiving holiday in 2007 was related to
25 these, as you say, rebuffing her advances in

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
249-252

<p style="text-align: right;">Page 249</p> <p>1 R. Figueroa</p> <p>2 2006?</p> <p>3 A. Because I was no longer held in high</p> <p>4 esteem anymore.</p> <p>5 Q. How were you no longer held in high</p> <p>6 esteem?</p> <p>7 A. Well, when people are walking passed</p> <p>8 you and they are grimacing at your very</p> <p>9 appearance, they are uttering under their</p> <p>10 breath.</p> <p>11 Q. But that wasn't until after the</p> <p>12 December 29, 2007 incident?</p> <p>13 A. Yes.</p> <p>14 Q. So I'm just focusing on one of the</p> <p>15 first things you listed as a negative action</p> <p>16 on the work front after you so-called rebuffed</p> <p>17 her advances.</p> <p>18 The three lunchroom encounters and</p> <p>19 the incident with batting the eyes took place</p> <p>20 in 2006. We don't get to the Thanksgiving</p> <p>21 holiday 2007 issue until November of 2007.</p> <p>22 So what makes you believe that that</p> <p>23 was related to what occurred in 2006?</p> <p>24 A. What happened was, Ms. Sachdeva was</p> <p>25 given a temporary assignment to go into</p>	<p style="text-align: right;">Page 251</p> <p>1 R. Figueroa</p> <p>2 just started happening all in one day. They</p> <p>3 started happening slowly.</p> <p>4 Q. Okay. So with regard to supervisors</p> <p>5 not helping you, you had mentioned supervisor</p> <p>6 Mattina back in January of 2008 not letting</p> <p>7 you into the detention room, what other</p> <p>8 incidents of supervisors not helping you would</p> <p>9 you be referring to besides that one?</p> <p>10 A. Well, I was told by a supervisor who</p> <p>11 retired, you can't put in for any assignments</p> <p>12 or jobs with CBP any longer.</p> <p>13 Q. And which supervisor was this?</p> <p>14 A. That was supervisor Mitnick.</p> <p>15 Q. And when did supervisor Mitnick tell</p> <p>16 you this?</p> <p>17 A. I don't recall, but it was after the</p> <p>18 holiday troubles began.</p> <p>19 Q. So that had to be sometime after</p> <p>20 November of 2007?</p> <p>21 A. Yes.</p> <p>22 Q. Okay, but again going back to 2006</p> <p>23 when you said you -- in your mind you rebuffed</p> <p>24 Sachdeva's advances, those took place in 2006,</p> <p>25 so how was it that you attribute the</p>
<p style="text-align: right;">Page 250</p> <p>1 R. Figueroa</p> <p>2 Manhattan and work at our office at Penn</p> <p>3 Plaza.</p> <p>4 There was a lady who was the</p> <p>5 department spokesman at the time, and she was</p> <p>6 leaving for another position.</p> <p>7 Ms. Sachdeva was being groomed for</p> <p>8 that position. So she was sent over there to</p> <p>9 learn how things were working so that her</p> <p>10 transition would be an easy one.</p> <p>11 So she disappeared from the mail</p> <p>12 branch for quite sometime.</p> <p>13 Q. Okay. And when did Ms. Sachdeva</p> <p>14 return to the mail branch?</p> <p>15 A. I don't recall, but --</p> <p>16 Q. But it was sometime in 2007?</p> <p>17 A. But she did return and these mishaps</p> <p>18 started to happen in bigger numbers.</p> <p>19 Q. Okay. Well, with regard to when you</p> <p>20 say supervisors not helping you, how do you</p> <p>21 attribute that to you so-called rebuffing Ms.</p> <p>22 Sachdeva's advances in 2006?</p> <p>23 A. Well, because everything started</p> <p>24 happening, but in a slow pace.</p> <p>25 It wasn't an avalanche of things that</p>	<p style="text-align: right;">Page 252</p> <p>1 R. Figueroa</p> <p>2 supervisors not helping you to you rebuffing</p> <p>3 Sachdeva's advances back in 2006 that that was</p> <p>4 somehow related?</p> <p>5 A. Nothing else in a negative manner</p> <p>6 ever occurred that this treatment could be</p> <p>7 attributed to, to anything other than my</p> <p>8 problems with supervisor Sachdeva.</p> <p>9 Q. Okay. All right, but now when you --</p> <p>10 according to you, rebuffed her advances in</p> <p>11 2006, there wasn't anything negative that</p> <p>12 happened to you in 2006; correct?</p> <p>13 A. Yes.</p> <p>14 Q. So there wasn't anything negative</p> <p>15 when you had rebuffed in these three lunchroom</p> <p>16 encounters in 2006; correct?</p> <p>17 A. Correct.</p> <p>18 Q. Okay. And the incidents where you</p> <p>19 say she was batting her eyes and looking</p> <p>20 seductively at you in 2006, when you didn't</p> <p>21 respond, there wasn't anything negative that</p> <p>22 happened to you at CBP in 2006; correct?</p> <p>23 A. No, nothing in 2006 that I can</p> <p>24 recall.</p> <p>25 Q. Right. And that bomb squad incident</p>

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
257-260

<p style="text-align: right;">Page 257</p> <p>1 R. Figueroa</p> <p>2 just one or two positions, they are looking</p> <p>3 for a multitude of people, repeated open</p> <p>4 vacancies for the same position, and I can't</p> <p>5 get hired? There's got to be something wrong.</p> <p>6 Q. But what I just want to get at is how</p> <p>7 you attribute that to your relationship with</p> <p>8 Ms. Sachdeva?</p> <p>9 A. Because I believe that if those</p> <p>10 incidences never occurred that I would have</p> <p>11 been able to obtain one of those positions.</p> <p>12 Q. And what other positions or transfers</p> <p>13 did you put in for that you believe are</p> <p>14 related to issues that you've had with Ms.</p> <p>15 Sachdeva?</p> <p>16 A. Well, let's see, I have a list at</p> <p>17 home. Mostly the U.S. Mint, that's the job I</p> <p>18 really wanted. And I believe that if I put in</p> <p>19 for supervisor now, I'll never get it.</p> <p>20 Q. When you say if you believe you put</p> <p>21 in for a supervisor now, you are talking about</p> <p>22 being a supervisor at CBP?</p> <p>23 A. Yes.</p> <p>24 Q. And why do you believe you'd never</p> <p>25 get a supervisory position now at CBP?</p>	<p style="text-align: right;">Page 259</p> <p>1 R. Figueroa</p> <p>2 proposal. And their response to me, and this</p> <p>3 was a different union at the time, "It's just</p> <p>4 a proposal, they haven't done anything to you</p> <p>5 yet, so just wait, just wait."</p> <p>6 Well, I waited, and I wound up with a</p> <p>7 suspension.</p> <p>8 Q. No, but my question to you is why did</p> <p>9 you wait until after the March 17th -- just</p> <p>10 look at the March 17, 2008 e-mail response?</p> <p>11 A. Right.</p> <p>12 Q. Okay. Why did you wait until</p> <p>13 after --</p> <p>14 A. Wait, March 17th you say?</p> <p>15 Q. Right, 2008, it's marked Defendant's</p> <p>16 Exhibit 3. So just look for Defendant's</p> <p>17 Exhibit 3.</p> <p>18 A. Okay.</p> <p>19 Q. It's the March 17, 2008 notice of</p> <p>20 proposal to suspend.</p> <p>21 A. Okay.</p> <p>22 Q. So I'm asking that why did you wait</p> <p>23 until after that had been issued, because you</p> <p>24 received that on March 18, 2008, correct? If</p> <p>25 you look on the last page?</p>
<p style="text-align: right;">Page 258</p> <p>1 R. Figueroa</p> <p>2 A. Because of my disciplinary record</p> <p>3 that they created and that they initialized</p> <p>4 and instituted.</p> <p>5 Q. When you say that they created and</p> <p>6 that they initialized, who specifically are</p> <p>7 you referring to?</p> <p>8 A. The management at JFK.</p> <p>9 Q. And who specifically in management at</p> <p>10 JFK?</p> <p>11 A. I can't tell you who in particular.</p> <p>12 The management at JFK, whose ever calling the</p> <p>13 shots on these things.</p> <p>14 Q. Well, let me ask you, can you tell me</p> <p>15 why did you wait until after the March 17,</p> <p>16 2008 notice of proposal to suspend you that's</p> <p>17 also marked Defendant's Exhibit 3 had been</p> <p>18 issued to you before raising with CBP</p> <p>19 management in this April 18, 2008 e-mail</p> <p>20 response the issue of a hostile work</p> <p>21 environment and you allegedly being on the</p> <p>22 receiving end of unwanted overtures by Ms.</p> <p>23 Sachdeva?</p> <p>24 A. Well, no, I've been complaining to</p> <p>25 the union, and I showed them the suspension</p>	<p style="text-align: right;">Page 260</p> <p>1 R. Figueroa</p> <p>2 A. March 18th, yes.</p> <p>3 Q. Right. So sometime after that on</p> <p>4 April 18, 2008, you sent this e-mail response</p> <p>5 that we have been discussing; correct?</p> <p>6 A. Yes.</p> <p>7 Q. So why did you wait until after you</p> <p>8 had been served and it had been issued, that</p> <p>9 March 17, 2008 notice of proposal to suspend</p> <p>10 you had been issued before raising in this</p> <p>11 April 18, 2008 e-mail response an issue of</p> <p>12 there being a hostile work environment with</p> <p>13 regard to you working under Ms. Sachdeva and</p> <p>14 her making unwanted overtures towards you, as</p> <p>15 you say?</p> <p>16 A. Because the union kept telling me</p> <p>17 that, listen, this is just a proposal for</p> <p>18 two days, you haven't gotten anything yet, so</p> <p>19 you haven't been injured yet.</p> <p>20 I beg to differ.</p> <p>21 Q. But my question though is why did you</p> <p>22 wait until after you got -- I'm just focusing</p> <p>23 on the notice of proposal to suspend you, this</p> <p>24 March 17, 2008, we haven't gotten to you</p> <p>25 actually being suspended yet, we are not there</p>

RICHARD FIGUEROA
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 14, 2013
261-264

Page 261

1 R. Figueroa
2 yet.
3 So just sticking with that, the March
4 17, 2008 notice of proposal to suspend you,
5 why did you wait until after you received that
6 on March 18, 2008 before raising in this April
7 18, 2008 e-mail response an issue of there
8 being a hostile work environment and Ms.
9 Sachdeva making unwanted overtures to you?
10 That's all that I'm asking.
11 A. Because I thought that this would
12 eventually fade away. There is people that
13 have disputes at their jobs all the time, but
14 it doesn't remain a constant campaign,
15 eventually it fades away.
16 When I realized that it wasn't going
17 to fade away and I had no knowledge of how the
18 government system worked, I had to do my
19 research to see what were my options, by the
20 time all that time had lapsed, it became later
21 in the month, March -- April 18th and I began
22 to exercise my rights.
23 Q. Okay, but why not have raised either
24 in 2007 an issue -- why didn't you raise an
25 issue that you believe you were working under

Page 262

1 R. Figueroa
2 a hostile work environment then with CBP
3 management?
4 A. Because I was told by other officers,
5 listen, if you go the EEO route, your career
6 is going to be finished and you will be done,
7 they will find some way to fire you.
8 Q. Who were these other officers that
9 you spoke to who told you that?
10 A. The other senior officers at work.
11 Q. Who were they?
12 A. I don't remember who they were. The
13 officers who knew about my problem and they
14 brought it up and we spoke briefly about it
15 and they suggested that, you know, don't do
16 anything, don't do anything.
17 Well, that's not my way of handling a
18 problem, but I didn't know which way to go and
19 which way to turn. By the time I learned how
20 the system worked and everything, that's when
21 I got myself into gear and I began seeking
22 counsel, and I began preparing my EEO
23 complaints.
24 MR. WOLIN: Off the record.
25 (Discussion off the record.)

Page 263

1 R. Figueroa
2 MR. LYNCH: Can you just read his
3 answer back?
4 MR. WOLIN: We have agreed to start
5 9:30 on Monday.
6 MR. LYNCH: Right. So the deposition
7 is going to continue next Monday, May 20th at
8 9:30 a.m. okay.
9 MR. WOLIN: That's correct.
10 MR. LYNCH: Thank you very much.
11 Thank you both for your time.
12 (Time noted: 5:01 p.m.)
13
14 RICHARD FIGUEROA
15 Subscribed and sworn to
16 before me this _____ day of
17 _____, 2013.
18
19 _____
20 Notary Public
21
22
23
24
25

Page 264

1 INDEX
2
3 WITNESS EXAMINATION BY Page No.
4 R. FIGUEROA MR. LYNCH 4
5 *****
6
7 DEFENDANT'S
8 Exhibit No. DESCRIPTION Page No.
9 1 Answer to interrogatories 11
10 2 Form 612 job application 15
11 3 Notice of proposal to 50
12 suspend from CBP dated
13 March 17, 2008
14 4 January 3, 2008 memorandum 119
15 5 April 8, 2008 e-mail 160
16 response
17
18
19
20
21
22
23
24
25

In the Matter Of:

RICHARD FIGUEROA vs. JANET NAPOLITANO

Civil Action No. CV-11-2087

RICHARD FIGUEROA

May 20, 2013

Volume II



Tankoos Reporting

1384 Broadway, 19th Floor
New York, NY 10018
212.687.8010

RICHARD FIGUEROA Volume II
 RICHARD FIGUEROA vs. JANET NAPOLITANO

May 20, 2013
 301-304

<p style="text-align: right;">Page 301</p> <p>1 R. Figueroa</p> <p>2 MR. LYNCH: All right. So let's have</p> <p>3 this marked as Exhibit 9.</p> <p>4 (Defendant's Exhibit 9, Letter dated</p> <p>5 April 6, 2009 was so marked for identification.)</p> <p>6 Q. Okay. Mr. Figueroa, I'm showing you</p> <p>7 what's been marked as Defendant's Exhibit 9.</p> <p>8 I just want you to take a moment to review it,</p> <p>9 sir, and just let me know when you are</p> <p>10 finished looking at it.</p> <p>11 Are you finished reviewing it?</p> <p>12 A. Yes.</p> <p>13 Q. Do you recognize this document,</p> <p>14 Defendant's Exhibit 9?</p> <p>15 A. Yes, I do.</p> <p>16 Q. Can you tell me what it is, sir?</p> <p>17 A. It is a suspension proposal letter.</p> <p>18 Q. Okay. Well, do you also recognize</p> <p>19 Exhibit 9 as a letter dated April 6, 2009 to</p> <p>20 you from CBP area director Camille Polimeni?</p> <p>21 A. Yes.</p> <p>22 Q. And you recognize your name at the</p> <p>23 top of Defendant's Exhibit 9 on the first</p> <p>24 page?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 303</p> <p>1 R. Figueroa</p> <p>2 the allegations were investigated."</p> <p>3 And the allegations are referring to</p> <p>4 the sexual harassment allegations you had made</p> <p>5 against Ms. Sachdeva.</p> <p>6 Now, when you read that sentence back</p> <p>7 in April of 2009, what was your understanding</p> <p>8 as to what it meant with respect to the</p> <p>9 suspension that CBP had originally proposed</p> <p>10 via the March 18, 2008 notice of proposal to</p> <p>11 suspend?</p> <p>12 A. That they are going to go ahead with</p> <p>13 the suspension.</p> <p>14 Q. Okay, but my question was with regard</p> <p>15 to the sentence, when you look at it in the</p> <p>16 first paragraph, where it says specifically</p> <p>17 "the final decision regarding the proposal you</p> <p>18 received was held in abeyance until the</p> <p>19 allegations were investigated."</p> <p>20 What was your understanding when you</p> <p>21 read that as far as the notice of proposal to</p> <p>22 suspend that had been issued, specifically the</p> <p>23 statement that it was held in abeyance, what</p> <p>24 did that mean to you when you read that, sir,</p> <p>25 what was your understanding?</p>
<p style="text-align: right;">Page 302</p> <p>1 R. Figueroa</p> <p>2 Q. And on the second page of Defendant's</p> <p>3 Exhibit 9, there is an indication that you had</p> <p>4 refused to acknowledge receipt of it on or</p> <p>5 around April 6th of 2009.</p> <p>6 Do you recall refusing to sign</p> <p>7 Exhibit 9?</p> <p>8 A. Yes.</p> <p>9 Q. And why was that, sir?</p> <p>10 A. Once again, it is our right within</p> <p>11 our union constitution to sign a form or not</p> <p>12 to sign a form.</p> <p>13 Q. All right. Well, according to</p> <p>14 Defendant's Exhibit 9, on April 6, 2009 CBP</p> <p>15 notified you by letter that its inquiry into</p> <p>16 the allegations you had raised concerning Ms.</p> <p>17 Sachdeva had been completed.</p> <p>18 Now, do you recall reviewing</p> <p>19 Defendant's Exhibit 9 on or around April 6th</p> <p>20 of 2009, sir, when it's dated?</p> <p>21 A. Yes.</p> <p>22 Q. Now, according to the first paragraph</p> <p>23 of Defendant's Exhibit 9, the March 18, 2008</p> <p>24 notice of proposal to suspend that we</p> <p>25 discussed last week "was held abeyance until</p>	<p style="text-align: right;">Page 304</p> <p>1 R. Figueroa</p> <p>2 A. That Mr. Parisi completed his</p> <p>3 investigation.</p> <p>4 Q. Okay. I understand the terms of --</p> <p>5 not referring to the first sentence where it</p> <p>6 says the inquiry had been completed, but just</p> <p>7 referring to the third sentence where it says</p> <p>8 that a final decision regarding the proposal</p> <p>9 to suspend you was held in abeyance, did you</p> <p>10 have an understanding when you were told that</p> <p>11 your suspension was held in abeyance? What</p> <p>12 that word "abeyance" meant, sir?</p> <p>13 A. I had no idea that my suspension was</p> <p>14 held in abeyance. I thought that they were</p> <p>15 proceeding with the suspension proposal as</p> <p>16 they notified me prior to this.</p> <p>17 So I had no idea that it was being</p> <p>18 temporarily suspended pending the outcome of</p> <p>19 this investigation.</p> <p>20 Q. But when you received Defendant's</p> <p>21 Exhibit 9 and you read the sentence that the</p> <p>22 final decision regarding proposal you had</p> <p>23 received, this March 18, 2008 notice of</p> <p>24 proposal to suspend had been held in abeyance,</p> <p>25 did you understand then, sir, that the notice</p>

RICHARD FIGUEROA Volume II
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 20, 2013
305-308

<p style="text-align: right;">Page 305</p> <p>1 R. Figueroa</p> <p>2 of proposal had essentially been frozen in</p> <p>3 time until this inquiry had been completed?</p> <p>4 MR. WOLIN: Objection.</p> <p>5 You can answer it.</p> <p>6 A. I told you, I had no idea that my</p> <p>7 suspension was being held in abeyance.</p> <p>8 Q. Right, but I'm just referring to at</p> <p>9 the time that you reviewed Defendant's</p> <p>10 Exhibit 9.</p> <p>11 MR. WOLIN: Objection.</p> <p>12 I think you've asked him the same</p> <p>13 thing five times.</p> <p>14 Q. It's a different question.</p> <p>15 I understand you didn't understand</p> <p>16 before.</p> <p>17 MR. WOLIN: Objection.</p> <p>18 Answer it.</p> <p>19 A. I'm not sure exactly is it what you</p> <p>20 are asking me.</p> <p>21 Are you asking me do I understand</p> <p>22 what the word "abeyance" means?</p> <p>23 Q. Well, you reviewed Defendant's</p> <p>24 Exhibit 9 back in April of 2009; correct, sir?</p> <p>25 A. In April of 2009, yes.</p>	<p style="text-align: right;">Page 307</p> <p>1 R. Figueroa</p> <p>2 because it's stated there that it was held in</p> <p>3 abeyance did I come to realize that the</p> <p>4 proceedings were halted temporarily.</p> <p>5 Q. All right. Now, also in that first</p> <p>6 paragraph of Defendant's Exhibit 9, CBP had</p> <p>7 also advised you the area director Camille</p> <p>8 Polimeni specifically that the allegations you</p> <p>9 had raised against Ms. Sachdeva had been found</p> <p>10 to be unsubstantiated.</p> <p>11 When you learned of the results of</p> <p>12 the investigation, how did you feel at that</p> <p>13 point in time?</p> <p>14 A. Well, I was told by my union</p> <p>15 representative that that was the outcome. So</p> <p>16 I wasn't shocked when I read it in the notice.</p> <p>17 Q. All right. Now, according to</p> <p>18 Defendant's Exhibit 9, with the inquiry into</p> <p>19 the allegations you had raised against Ms.</p> <p>20 Sachdeva, now that they had been completed,</p> <p>21 CBP was ready to proceed with the March 18,</p> <p>22 2008 notice of proposal to suspend you.</p> <p>23 And in Defendant's Exhibit 9 it</p> <p>24 indicates you'd have another opportunity to</p> <p>25 provide a written and/or oral reply.</p>
<p style="text-align: right;">Page 306</p> <p>1 R. Figueroa</p> <p>2 Q. Okay. And when you reviewed it, it</p> <p>3 contained a number of information. The first</p> <p>4 was this administrative inquiry had been</p> <p>5 completed.</p> <p>6 So you understood that when you got</p> <p>7 it; right?</p> <p>8 A. Yes.</p> <p>9 Q. So then you had another bit before</p> <p>10 information that's in that first paragraph</p> <p>11 that indicated that this proposal to suspend</p> <p>12 had been held in abeyance.</p> <p>13 I understand before, before you</p> <p>14 received this notice in April of 2009 you</p> <p>15 didn't know your suspension was in abeyance,</p> <p>16 but then you got the notice.</p> <p>17 So that's my question. My question</p> <p>18 was now at the point you got the notice where</p> <p>19 it says this proposal, the March 18, 2008, had</p> <p>20 been held in abeyance, did you understand at</p> <p>21 that point in time, sir, that your suspension</p> <p>22 had been held in abeyance? At that point in</p> <p>23 time? Not before, we are talking about when</p> <p>24 you got the letter in your hand?</p> <p>25 A. Yes, at that moment in time, only</p>	<p style="text-align: right;">Page 308</p> <p>1 R. Figueroa</p> <p>2 Now, in response to Defendant's</p> <p>3 Exhibit 9, did you ever submit an additional</p> <p>4 written and/or oral reply to the March 18,</p> <p>5 2008 notice of proposal to suspend?</p> <p>6 A. I don't recall. I've submitted many</p> <p>7 documents, so I can't recall that specific</p> <p>8 one.</p> <p>9 MR. LYNCH: Let's have this marked as</p> <p>10 the next exhibit.</p> <p>11 (Defendant's Exhibit 10, May 21, 2009</p> <p>12 letter from CBP area director Camille</p> <p>13 Polimeni was so marked for identification.)</p> <p>14 Q. Okay. You've been handed what's been</p> <p>15 marked as defendants Exhibit 10, a copy has</p> <p>16 also been handed to your counsel. If you can</p> <p>17 just take a moment to review Defendant's</p> <p>18 Exhibit 10, and I'm just going to ask you a</p> <p>19 couple of questions about it, sir; okay?</p> <p>20 A. Yes.</p> <p>21 Q. Do you recognize this document,</p> <p>22 Defendant's Exhibit 10, Mr. Figueroa?</p> <p>23 A. Yes.</p> <p>24 Q. Can you tell me what it is, sir?</p> <p>25 A. It is a notification to me stating</p>

RICHARD FIGUEROA Volume II
 RICHARD FIGUEROA vs. JANET NAPOLITANO

May 20, 2013
 309-312

<p style="text-align: right;">Page 309</p> <p>1 R. Figueroa</p> <p>2 that I will be suspended for one day.</p> <p>3 Q. And Defendant's Exhibit 10 is a</p> <p>4 letter dated May 21, 2009. Do you also</p> <p>5 recognize it as a May 21, 2009 letter from CBP</p> <p>6 area director Camille Polimeni indicating that</p> <p>7 the March 17, 2008 notice of proposal to</p> <p>8 suspend the charges made in that had been</p> <p>9 sustained against you?</p> <p>10 MR. LYNCH: Do you need the question</p> <p>11 read back?</p> <p>12 THE WITNESS: Yes, please.</p> <p>13 (Question read.)</p> <p>14 A. Yes, I recognize that she is stating</p> <p>15 that.</p> <p>16 Q. All right. So according to</p> <p>17 Defendant's Exhibit 10, the CBP area director</p> <p>18 Camille Polimeni had, in sustaining the</p> <p>19 charges made in the March 17, 2008 notice of</p> <p>20 proposal to suspend, had decided to reduce the</p> <p>21 proposed penalty from two days to one and that</p> <p>22 your suspension was to be carried out on</p> <p>23 June 16th of 2009.</p> <p>24 Did you, in fact, carry out a one day</p> <p>25 suspension on June 16th of 2009?</p>	<p style="text-align: right;">Page 311</p> <p>1 R. Figueroa</p> <p>2 Are you finished reviewing</p> <p>3 Defendant's Exhibit 11?</p> <p>4 A. Yes.</p> <p>5 Q. All right. Mr. Figueroa, do you</p> <p>6 recognize this document, Defendant's</p> <p>7 Exhibit 11?</p> <p>8 A. Yes, it's another suspension proposal</p> <p>9 letter.</p> <p>10 Q. Do you also recognize Defendant's</p> <p>11 Exhibit 11 specifically as a November 29, 2011</p> <p>12 letter from CBP notifying of a proposal to</p> <p>13 suspend you?</p> <p>14 A. Yes.</p> <p>15 Q. I'll also refer to Defendant's</p> <p>16 Exhibit 11 from time to time as the</p> <p>17 November 29, 2011 notice of proposal to</p> <p>18 suspend, okay?</p> <p>19 Now, according to the November 29,</p> <p>20 2011 notice of proposal to suspend, CBP</p> <p>21 proposed to suspend you for two days in</p> <p>22 connection with an incident that occurred on</p> <p>23 July 25th of 2011.</p> <p>24 And this November 29, 2011, notice of</p> <p>25 proposal to suspend, it sets forth three</p>
<p style="text-align: right;">Page 310</p> <p>1 R. Figueroa</p> <p>2 A. I did, in fact, serve a one day</p> <p>3 suspension --</p> <p>4 MR. WOLIN: Objection to form.</p> <p>5 A. -- on June 16, 2009.</p> <p>6 Q. All right. So following receipt of</p> <p>7 Defendant's Exhibit 10 you did serve your</p> <p>8 suspension on June 16th of 2009?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And can you tell me after you</p> <p>11 served your suspension on June 16, 2009, when</p> <p>12 did you return to duty?</p> <p>13 A. I believe it was the following day.</p> <p>14 Q. So that would be June 17, 2009?</p> <p>15 A. Yes. If that was a weekday, yes.</p> <p>16 MR. LYNCH: Mark this, please.</p> <p>17 (Defendant's Exhibit 11, November 29,</p> <p>18 2011 letter from CBP notifying of a</p> <p>19 proposal to suspend was so marked</p> <p>20 for identification.)</p> <p>21 Q. You've been handed what's been marked</p> <p>22 as Defendant's Exhibit 11.</p> <p>23 I just want you to take a moment to</p> <p>24 review it. A copy has also been hand to your</p> <p>25 counsel.</p>	<p style="text-align: right;">Page 312</p> <p>1 R. Figueroa</p> <p>2 charges upon which CBP proposed suspending</p> <p>3 you.</p> <p>4 Charge number 1, failure to follow</p> <p>5 supervisory instructions.</p> <p>6 Charge number 2, absent without</p> <p>7 leave.</p> <p>8 And charge number 3, unprofessional</p> <p>9 conduct.</p> <p>10 Now, before going into each charge, I</p> <p>11 want to talk about the incident that arose</p> <p>12 from, specifically, July 25, 2011.</p> <p>13 So let's talk about that day. On</p> <p>14 which branch were you assigned to work on</p> <p>15 July 25, 2011, sir?</p> <p>16 A. Passenger processing.</p> <p>17 Q. And what shift were you scheduled to</p> <p>18 work on July 25th of 2011?</p> <p>19 A. A 4:00 to 12:00 shift.</p> <p>20 Q. And what time did you report to work</p> <p>21 that day?</p> <p>22 A. Early, about 3:15 in the afternoon.</p> <p>23 Q. When you reported to work, did you</p> <p>24 have an assigned area with which you were</p> <p>25 supposed to work?</p>

RICHARD FIGUEROA Volume II
 RICHARD FIGUEROA vs. JANET NAPOLITANO

May 20, 2013
 329-332

<p style="text-align: right;">Page 329</p> <p>1 R. Figueroa</p> <p>2 to be working, stamping, like I am. I don't</p> <p>3 understand what you mean by "here."</p> <p>4 What's wrong with there? But if</p> <p>5 there is some kind of a problem, why don't you</p> <p>6 just get a supervisor to come over here and</p> <p>7 straighten this all out?</p> <p>8 Q. Okay. And on July 25, 2011, Pedro</p> <p>9 Cano was your supervisor; correct?</p> <p>10 A. Well, he was a supervisor assigned to</p> <p>11 that day. He wasn't my supervisor. We all</p> <p>12 have assigned supervisors.</p> <p>13 Q. Okay. So you told this officer, "Why</p> <p>14 don't you get a supervisor to straighten this</p> <p>15 out"?</p> <p>16 And what happened?</p> <p>17 A. Well, then a few minutes later</p> <p>18 supervisor Cano comes over.</p> <p>19 Q. Tell me around -- this is still</p> <p>20 around 4:00 p.m. on July 25, 2011?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And --</p> <p>23 A. Excuse me, obviously a few minutes</p> <p>24 past 4:00 p.m.</p> <p>25 Q. Okay. So this is approximately a few</p>	<p style="text-align: right;">Page 331</p> <p>1 R. Figueroa</p> <p>2 remember the number.</p> <p>3 Q. Okay?</p> <p>4 A. I'm sure I notated it down somewhere.</p> <p>5 Q. Okay. So what happened next?</p> <p>6 A. He says, "You are supposed to work in</p> <p>7 that booth."</p> <p>8 "There is someone working in that</p> <p>9 booth. How can I work in a booth that's</p> <p>10 already occupied by somebody?"</p> <p>11 Q. How did you know somebody else was</p> <p>12 working in the booth that supervisor Cano had</p> <p>13 directed you to?</p> <p>14 A. The officer's possessions were in</p> <p>15 that booth.</p> <p>16 Q. How did you know the officer's</p> <p>17 possessions were in the booth that supervisor</p> <p>18 Cano had directed you to report to?</p> <p>19 A. Because I can see the officer's</p> <p>20 possessions in the booth.</p> <p>21 Q. Okay. Well, were the booths next to</p> <p>22 one another, the one that you were in and the</p> <p>23 one that supervisor Cano was directing you to?</p> <p>24 A. No, I think they were a little bit</p> <p>25 apart.</p>
<p style="text-align: right;">Page 330</p> <p>1 R. Figueroa</p> <p>2 minutes past 4:00 p.m. on July 25, 2011 that</p> <p>3 this occurred?</p> <p>4 A. Yes.</p> <p>5 Q. So what happens when you tell the</p> <p>6 officer to get a supervisor?</p> <p>7 A. Supervisor Cano comes to my location.</p> <p>8 Q. And what happens when supervisor Cano</p> <p>9 comes to your location?</p> <p>10 A. He says, "Officer Figueroa, you are</p> <p>11 working in the wrong booth."</p> <p>12 I didn't understand that. I have</p> <p>13 been in this booth for the last half hour</p> <p>14 processing people, I didn't understand what</p> <p>15 the "wrong booth" means. Is this booth</p> <p>16 inoperable? Is it shut down for some reason?</p> <p>17 He says, "No, no, no, everybody has</p> <p>18 assigned booths."</p> <p>19 I go, "Well this is new to me."</p> <p>20 "And you are in the wrong one."</p> <p>21 I go, "What booth am I supposed to be</p> <p>22 in?"</p> <p>23 "That one."</p> <p>24 Q. And which booth was that?</p> <p>25 A. I don't remember the number. I don't</p>	<p style="text-align: right;">Page 332</p> <p>1 R. Figueroa</p> <p>2 Q. Okay. Now, did you see an officer's</p> <p>3 possessions in the booth that supervisor Cano</p> <p>4 had directed you to before you went into the</p> <p>5 unoccupied booth that you were sitting in?</p> <p>6 A. Well, I must have, because it wasn't</p> <p>7 an unoccupied booth. I went to the first</p> <p>8 unoccupied booth I could find.</p> <p>9 Q. Okay. So you went to the booth that</p> <p>10 supervisor Cano had directed you to before you</p> <p>11 went into this unoccupied booth that you were</p> <p>12 in?</p> <p>13 A. No.</p> <p>14 MR. LYNCH: Can you read my question</p> <p>15 back, please?</p> <p>16 (Question read.)</p> <p>17 Q. No? So can you explain?</p> <p>18 A. There is a row of booths, and you</p> <p>19 walk down the row.</p> <p>20 Q. Okay. So let's --</p> <p>21 MR. WOLIN: Are you finished</p> <p>22 answering the question?</p> <p>23 I don't know if he was finished</p> <p>24 answering the question.</p> <p>25 MR. LYNCH: I know, I wanted to</p>

RICHARD FIGUEROA Volume II
 RICHARD FIGUEROA vs. JANET NAPOLITANO

May 20, 2013
 349-352

Page 349

1 R. Figueroa
 2 Q. And what, if anything, did you say in
 3 response?
 4 A. "Well, if you are bewildered, how do
 5 you expect me to feel?"
 6 Okay. Let's not forget the fact the
 7 man threatened me and something will be done
 8 about that. I am going to report that.
 9 Q. So then what happened?
 10 A. He was making a phone call speaking
 11 to someone else in the union, Officer Sweeney
 12 was speaking to someone else in the union,
 13 because he quite frankly is literally stumped
 14 at this point.
 15 Q. Okay. Did Officer Sweeney say who he
 16 was going to call?
 17 A. He did, but I don't remember.
 18 Q. Okay.
 19 A. Someone higher than his position. He
 20 is a steward in the union, someone on the next
 21 level.
 22 Q. So there came a point in time after
 23 Officer Sweeney came to speak to you after he
 24 had already spoken with supervisor Cano which
 25 he indicated he needed to make a phone call to

Page 350

1 R. Figueroa
 2 someone else in the union higher up than him?
 3 A. Yes.
 4 Q. Did Officer Sweeney, in fact, make
 5 that phone call to a higher union person?
 6 A. Yes.
 7 Q. And do you know who Officer Sweeney
 8 called?
 9 A. No.
 10 Q. So what happened after the telephone
 11 call that Officer Sweeney made to a higher
 12 person within the union?
 13 A. I told Officer Sweeney I was not
 14 feeling well, I'm going home.
 15 Q. Okay. And why were you not feeling
 16 well?
 17 A. I don't understand why I was not
 18 feeling well, I was just not feeling well.
 19 Q. Okay?
 20 A. I am aggravated, okay. I feel my
 21 blood pressure surging, all right. This is
 22 literal insanity. It's like a child arguing
 23 that I stepped over his half of the bedroom,
 24 this is ridiculous.
 25 Q. You told Officer Sweeney that you

Page 351

1 R. Figueroa
 2 were not feeling well, how specifically were
 3 you feeling at that point?
 4 A. I was feeling sick.
 5 Q. When you say you were feeling sick,
 6 how exactly did you feel sick?
 7 A. I was feeling hot, nauseous, I had a
 8 headache at that time.
 9 Q. Okay. Besides feeling hot, nauseous,
 10 having a headache, how else did you not feel
 11 well when you were speaking to Officer Sweeney
 12 on July 25, 2011?
 13 A. That was enough. That was plenty.
 14 It was very intense, each symptom. That was
 15 enough. Definitely enough to know I was not
 16 feeling well.
 17 Q. Okay. Well when you had reported to
 18 work earlier on July 25, 2011, did you feel
 19 hot, nauseous, have a headache at all?
 20 A. No, I felt fine.
 21 Q. So it was only after the point that
 22 Officer Sweeney came back to talk to you after
 23 Officer Sweeney had talked to supervisor Cano
 24 that you started to feel hot, nauseous and
 25 have a headache?

Page 352

1 R. Figueroa
 2 MR. WOLIN: Objection.
 3 A. No, I started feeling ill, I don't
 4 remember exactly at what point. I was not
 5 taking my temperature, naturally, and I am not
 6 a medical person or ever had medical training.
 7 I was feeling sick and I felt it was coming on
 8 ever since this whole thing began unfolding.
 9 Q. When you say you started to feel sick
 10 when this whole thing began unfolding, when
 11 specifically did you begin to feel sick that
 12 day?
 13 A. Well, once I was threatened, I began
 14 to feel sick.
 15 Q. So it was after the point that
 16 supervisor Cano had spoken to you and
 17 indicated you would be sorry, that you started
 18 to feel ill; is that correct?
 19 A. Yes.
 20 MR. LYNCH: Let's have this marked.
 21 (Defendant's Exhibit 12, E-mail
 22 notification dated July 27, 2011 was so
 23 marked for identification.)
 24 Q. Okay. Mr. Figueroa, you've been
 25 handed what's been marked as Defendant's

RICHARD FIGUEROA Volume II
 RICHARD FIGUEROA vs. JANET NAPOLITANO

May 20, 2013
 353-356

<p style="text-align: right;">Page 353</p> <p>1 R. Figueroa</p> <p>2 Exhibit 12. A copy has been handed to your</p> <p>3 counsel. If you can just take a moment to</p> <p>4 review it, sir, and I'm going to ask you some</p> <p>5 questions.</p> <p>6 A. Okay.</p> <p>7 Q. Do you recognize this document,</p> <p>8 Defendant's Exhibit 12?</p> <p>9 A. Yes.</p> <p>10 Q. Can you tell me what Defendant's</p> <p>11 Exhibit 12 is?</p> <p>12 A. It was an e-mail notification I sent</p> <p>13 supervisor Cano's -- supervisor Cano's</p> <p>14 supervisor.</p> <p>15 MR. LYNCH: Can you just read his</p> <p>16 answer back?</p> <p>17 (Answer read.)</p> <p>18 Q. And according to Defendant's</p> <p>19 Exhibit 12, this e-mail notification that you</p> <p>20 sent is addressed to DCBPO Chance Young.</p> <p>21 Is that the individual that when you</p> <p>22 are referring to supervisor Cano's supervisor</p> <p>23 you are referring to?</p> <p>24 A. Yes.</p> <p>25 Q. And do you also recognize Defendant's</p>	<p style="text-align: right;">Page 355</p> <p>1 R. Figueroa</p> <p>2 And I'll stop there.</p> <p>3 Does that refresh your recollection</p> <p>4 that the incident with Mr. Cano occurred</p> <p>5 around 4:30 p.m. on July 25th of 2011?</p> <p>6 A. Yes, at approximately 4:30 p.m., yes.</p> <p>7 Q. And does this also refresh your</p> <p>8 recollection from what I just read that the</p> <p>9 booth where the incident occurred with Mr.</p> <p>10 Cano was booth number 42?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. All right. Now, directing</p> <p>13 your attention to the second full paragraph,</p> <p>14 the second sentence -- actually, I'll just</p> <p>15 backup. I'll refer beginning with the first</p> <p>16 sentence where it says, "On Monday, July 25,</p> <p>17 2011 at approximately 15:30 hours, CBPO</p> <p>18 Richard Figueroa, badge number 3020 reported</p> <p>19 for a 4 by 12 shift at terminal 4 at</p> <p>20 immigration primary."</p> <p>21 Your badge number at that time was</p> <p>22 3020; is that correct?</p> <p>23 A. Yes.</p> <p>24 Q. Is that still your badge number?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 354</p> <p>1 R. Figueroa</p> <p>2 Exhibit 12 as an e-mail notification that you</p> <p>3 sent on July 27, 2011?</p> <p>4 A. I'm sorry, please repeat that.</p> <p>5 MR. LYNCH: Read it back.</p> <p>6 (Question read.)</p> <p>7 A. Yes.</p> <p>8 Q. And according to Defendant's</p> <p>9 Exhibit 12 you sent this e-mail notification</p> <p>10 to Mr. Chance Young on July 27, 2011 in</p> <p>11 connection with what you wrote on the subject</p> <p>12 line, "threats to CBPO by SCBPO, P. Cano?"</p> <p>13 A. Yes.</p> <p>14 Q. Okay. All right. Now, directing</p> <p>15 your attention to the first paragraph of</p> <p>16 Defendant's Exhibit 12, and I'll refer also to</p> <p>17 Defendant's Exhibit 12 from time to time as</p> <p>18 your July 27, 2011 e-mail notification.</p> <p>19 And in your July 27, 2011 e-mail</p> <p>20 notification also marked Defendant's</p> <p>21 Exhibit 12, you wrote on the first full</p> <p>22 paragraph that, "On Monday, July 25, 2011, at</p> <p>23 approximately 16:30 hours, SCBPO, P. Cano</p> <p>24 threatened CBPO Richard Figueroa at primary</p> <p>25 booth number 42."</p>	<p style="text-align: right;">Page 356</p> <p>1 R. Figueroa</p> <p>2 Q. And I think you testified earlier</p> <p>3 that you did work a 4 by 12 shift on July 25,</p> <p>4 2011. So that's also correct; right?</p> <p>5 A. Yes.</p> <p>6 Q. And the next sentence you wrote, "At</p> <p>7 that time it was noted on the sign-in sheet</p> <p>8 that I was assigned to booth number 32."</p> <p>9 So according to what you wrote on</p> <p>10 this July 27, 2011 e-mail notification, that's</p> <p>11 also marked as Defendant's Exhibit 12, when</p> <p>12 you reported to work, it was noted on a</p> <p>13 sign-in sheet that you were assigned to booth</p> <p>14 number 32.</p> <p>15 Does that refresh your recollection,</p> <p>16 sir, when you signed in on July 25, 2011 to</p> <p>17 report to work, that on the sign-in sheet, it</p> <p>18 was noted that you were to report to booth</p> <p>19 number 32?</p> <p>20 A. Yes, I subsequently learned what the</p> <p>21 number next to my name meant.</p> <p>22 Q. Okay. I don't understand when you</p> <p>23 say you subsequently learned?</p> <p>24 A. When you sign-in, okay, you'll have</p> <p>25 your name there, okay, and you just sign-in</p>

RICHARD FIGUEROA Volume II
 RICHARD FIGUEROA vs. JANET NAPOLITANO

May 20, 2013
 357-360

<p style="text-align: right;">Page 357</p> <p>1 R. Figueroa</p> <p>2 next to it, all right.</p> <p>3 There was a number next to my name.</p> <p>4 I don't know what it meant. It did not say go</p> <p>5 directly to booth 32. There was just a number</p> <p>6 next to my name. I didn't know what that</p> <p>7 meant, that I'm not preparing this document.</p> <p>8 All my obligations to this document</p> <p>9 are is for me to sign-in.</p> <p>10 Q. Okay. According to what you wrote</p> <p>11 here on this July 27, 2011 e-mail notification</p> <p>12 marked Defendant's Exhibit 12, according to</p> <p>13 your words, at the time that you had reported</p> <p>14 to work you wrote "it was noted on the sign-in</p> <p>15 sheet that I was assigned to booth number 32?"</p> <p>16 A. Yes, I subsequently learned what it</p> <p>17 meant and I said oh, I remember seeing that</p> <p>18 number, and I didn't know what that number</p> <p>19 meant.</p> <p>20 Q. So you are saying at the time that</p> <p>21 you had reported to work on July 25, 2011, you</p> <p>22 are saying you did not understand that the</p> <p>23 booth you are assigned to was booth number 32?</p> <p>24 A. No. Once again, there was no</p> <p>25 procedure, policy in place to state that from</p>	<p style="text-align: right;">Page 359</p> <p>1 R. Figueroa</p> <p>2 Q. Well, prior to July 25, 2011 when you</p> <p>3 went to sign-in, had you seen numbers next to</p> <p>4 your name?</p> <p>5 A. Sometimes you did, sometimes you</p> <p>6 didn't.</p> <p>7 Q. Okay. So you do recall prior to</p> <p>8 July 25, 2011 when you would sign-in that you</p> <p>9 would see sometimes a number next to your name</p> <p>10 when you were working in passenger processing?</p> <p>11 MR. WOLIN: Objection.</p> <p>12 A. Sometimes you would see a number.</p> <p>13 Sometimes you'd see other notations.</p> <p>14 Sometimes you saw nothing.</p> <p>15 Q. But again, sir, you just need to</p> <p>16 answer my question.</p> <p>17 Can you read the question back?</p> <p>18 (Question read.)</p> <p>19 Q. So the answer is yes, sometimes when</p> <p>20 you would sign-in prior to July 25, 2011 at</p> <p>21 passenger processing, you would see a number</p> <p>22 next to your name on the sign-in sheet;</p> <p>23 correct?</p> <p>24 A. Sometimes I would see a number,</p> <p>25 sometimes I would see other notations.</p>
<p style="text-align: right;">Page 358</p> <p>1 R. Figueroa</p> <p>2 this day forward, this is how we are going to</p> <p>3 operate.</p> <p>4 Q. But my question just wasn't about</p> <p>5 policy. I'm just referring to what you wrote</p> <p>6 here.</p> <p>7 A. Yes. And according to what I wrote</p> <p>8 here, I subsequently learned that there was a</p> <p>9 number next to my name and what that number</p> <p>10 meant. So I included that in my e-mail.</p> <p>11 Q. Okay. Well, let me make sure I</p> <p>12 understand correct.</p> <p>13 You recall when you went to sign-in</p> <p>14 on the sign-in sheet on July 25, 2011, that</p> <p>15 there was a number next to your name; is that</p> <p>16 correct?</p> <p>17 A. Yes.</p> <p>18 Q. Okay, but it's your testimony that</p> <p>19 you didn't understand what that number meant?</p> <p>20 A. No, there are many notations on that</p> <p>21 sheet, okay, and I don't know what those</p> <p>22 notations stand for. They are made by the</p> <p>23 supervisor that prepares everything.</p> <p>24 So there are many notations made on</p> <p>25 these sheets.</p>	<p style="text-align: right;">Page 360</p> <p>1 R. Figueroa</p> <p>2 MR. LYNCH: Can you read the question</p> <p>3 back?</p> <p>4 MR. WOLIN: Objection.</p> <p>5 It's already been answered three</p> <p>6 times</p> <p>7 (Question read.)</p> <p>8 Q. All right. So prior to July 25, 2011</p> <p>9 when you would see a number next to your name</p> <p>10 when you would sign-in, did you ask anybody</p> <p>11 what that meant?</p> <p>12 A. No.</p> <p>13 Q. Why not?</p> <p>14 A. It's not my sheet to prepare. It's</p> <p>15 -- all my obligation is is to sign it when I</p> <p>16 appear for work. That is it.</p> <p>17 It is not my job to interpret</p> <p>18 scratchings or notations on this sheet.</p> <p>19 Q. Okay. Well, when you would sign-in</p> <p>20 prior to July 25, 2011 and you would see a</p> <p>21 number next to your name, did that number</p> <p>22 correspond to a booth that you would go to,</p> <p>23 sir?</p> <p>24 A. No.</p> <p>25 Q. Never at all prior to July 25, 2011?</p>

RICHARD FIGUEROA Volume II
 RICHARD FIGUEROA vs. JANET NAPOLITANO

May 20, 2013
 377-380

<p style="text-align: right;">Page 377</p> <p>1 R. Figueroa</p> <p>2 Q. Okay.</p> <p>3 A. I don't know if there was a second</p> <p>4 one -- if there is a second one floating</p> <p>5 around anywhere, but I believe I corrected the</p> <p>6 time.</p> <p>7 But I started feeling sick, and with</p> <p>8 my union representative there, I notified the</p> <p>9 supervisor that I was feeling ill and I'm</p> <p>10 going home sick.</p> <p>11 Q. How exactly did you notify supervisor</p> <p>12 Cano that you were sick?</p> <p>13 A. I told him, "I'm not feeling well,</p> <p>14 I'm going home sick."</p> <p>15 Q. And what did he say in response?</p> <p>16 A. Well, he told me that I had to go all</p> <p>17 the way to the office and I had to sign-out on</p> <p>18 the sign-out sheet.</p> <p>19 Q. Okay. What did you say in response?</p> <p>20 A. "I'm feeling ill. I'm not going to</p> <p>21 do anything along the lines of administrative</p> <p>22 duties. I'm feeling ill, I'm going go home.</p> <p>23 I'm not arguing at this point with you. I'm</p> <p>24 going home."</p> <p>25 Q. What specifically were the</p>	<p style="text-align: right;">Page 379</p> <p>1 R. Figueroa</p> <p>2 A. No, the rules of the contract</p> <p>3 stipulate that you have to notify a supervisor</p> <p>4 that you are going home sick. Once you do</p> <p>5 that -- okay, you just can't walk off the</p> <p>6 floor and then later on say you were sick.</p> <p>7 You have to notify them that you are going</p> <p>8 home sick and that's all you have to do.</p> <p>9 That's all you have to do.</p> <p>10 Q. So, can you tell me after this</p> <p>11 July 25, 2011 incident, were you asked by CBP</p> <p>12 management to address certain aspects of it?</p> <p>13 A. Yes. Unlawfully I was, yes.</p> <p>14 Q. When you say "unlawfully," what do</p> <p>15 you mean?</p> <p>16 A. Once an incident like this begins and</p> <p>17 if you need to question me, there is a</p> <p>18 procedure to follow. They didn't follow it.</p> <p>19 Q. Well, what are you saying they should</p> <p>20 have followed? And when you say something is</p> <p>21 unlawful, that's a pretty strong word. So</p> <p>22 what exactly are you stating?</p> <p>23 A. If you are going to interrogate me,</p> <p>24 there are certain forms and notices that you</p> <p>25 have to give me before you can interrogate me.</p>
<p style="text-align: right;">Page 378</p> <p>1 R. Figueroa</p> <p>2 administrative duties or functions that</p> <p>3 supervisor Cano was telling you needed to be</p> <p>4 done?</p> <p>5 A. He told me to sign-out on the</p> <p>6 sign-out sheet. The sign-out sheet is way on</p> <p>7 the other side of the terminal.</p> <p>8 I'm not delaying seeking medical</p> <p>9 attention one minute. I'm packing my things,</p> <p>10 I'm out of here, I'm leaving.</p> <p>11 Q. Well was there a procedure with which</p> <p>12 you were supposed to fill out a certain form</p> <p>13 before going home sick?</p> <p>14 A. No, sir. Funny you mention that.</p> <p>15 When an officer is home and he is sick, all he</p> <p>16 does is call up, speak to a supervisor, tells</p> <p>17 him he is going sick and he hangs up the</p> <p>18 phone, no forms are ever filled out.</p> <p>19 Q. Okay, but we are talking about when</p> <p>20 you are at work. So on the day when the</p> <p>21 incident occurred on July 25, 2011, was there</p> <p>22 a procedure with which if an officer wanted to</p> <p>23 go home that day because he was feeling sick</p> <p>24 that needed to be filled out, a procedure that</p> <p>25 needed to be followed administratively?</p>	<p style="text-align: right;">Page 380</p> <p>1 R. Figueroa</p> <p>2 Q. Okay?</p> <p>3 A. Okay. I was being interrogated</p> <p>4 without being given those documents.</p> <p>5 Q. What forms and notices are you</p> <p>6 referring to that you believe you should have</p> <p>7 received?</p> <p>8 A. Something known as the Weingarten</p> <p>9 Rights. And one or two other forms, I was</p> <p>10 given that much later, but I was interrogated</p> <p>11 prior. And they are not allowed to do that.</p> <p>12 MR. LYNCH: This is 13.</p> <p>13 (Defendant's Exhibit 13, E-mail dated</p> <p>14 August 3, 2011 was so marked for</p> <p>15 identification.)</p> <p>16 Q. Okay. I'm showing you what's been</p> <p>17 marked as Defendant's Exhibit 13. Just take a</p> <p>18 moment to review it and then I'm going to ask</p> <p>19 you some questions.</p> <p>20 Do you recognize this document,</p> <p>21 Defendant's Exhibit 13, Mr. Figueroa?</p> <p>22 A. Well, I can't say that I do.</p> <p>23 Something has been scratched out of here, I</p> <p>24 don't know why.</p> <p>25 Q. Okay. I understand that you see a</p>

RICHARD FIGUEROA Volume II
 RICHARD FIGUEROA vs. JANET NAPOLITANO

May 20, 2013
 381-384

<p style="text-align: right;">Page 381</p> <p>1 R. Figueroa</p> <p>2 mark out on the two, but can you tell, me do</p> <p>3 you recognize this document, Defendant's</p> <p>4 Exhibit 13, what's written on the first page?</p> <p>5 Do you recognize this document,</p> <p>6 Defendant's Exhibit 13, as an e-mail that you</p> <p>7 sent dated August 3, 2011 in response to an</p> <p>8 e-mail on July 29, 2011 that Deputy Supervisor</p> <p>9 Chance Young sent to you regarding the</p> <p>10 July 25, 2011 incident?</p> <p>11 A. Yes, I remember Deputy Young's e-mail</p> <p>12 to me.</p> <p>13 Q. Okay. And do you recognize on the</p> <p>14 first page of Defendant's Exhibit 13 the top</p> <p>15 portion being a response that you sent on</p> <p>16 August 3, 2011 regarding this July 25, 2011</p> <p>17 incident?</p> <p>18 A. Well, I can't say for sure, counsel,</p> <p>19 it's been redacted. If I sent it, I don't</p> <p>20 know why any information is being redacted</p> <p>21 from this.</p> <p>22 Q. I understand you see the redaction on</p> <p>23 the "to" line, sir.</p> <p>24 I'm just asking you do you recognize</p> <p>25 this document, Defendant's Exhibit 13, as an</p>	<p style="text-align: right;">Page 383</p> <p>1 R. Figueroa</p> <p>2 number 32 and you refused.</p> <p>3 The second, SCBPO Cano instructed you</p> <p>4 several times to fill out a leave slip for the</p> <p>5 requested sick leave and you refused.</p> <p>6 And the third, that you left your</p> <p>7 assignment without supervisory approval.</p> <p>8 So those are three aspects that Mr.</p> <p>9 Chance Young's July 29, 2011 e-mail to you, he</p> <p>10 asked you to respond to.</p> <p>11 And we will look at the top of</p> <p>12 Defendant's Exhibit 13, do you recognize that</p> <p>13 as your response that you sent on August 3,</p> <p>14 2011 in response to that e-mail; is that</p> <p>15 right?</p> <p>16 MR. WOLIN: Objection.</p> <p>17 A. Without being able to see the entire</p> <p>18 thing --</p> <p>19 MR. WOLIN: I mean, he already</p> <p>20 answered the same exact question, Tim.</p> <p>21 Read back two questions ago. He said</p> <p>22 that for the purposes of this deposition he</p> <p>23 will say yes.</p> <p>24 A. For purpose of this deposition I will</p> <p>25 say yes.</p>
<p style="text-align: right;">Page 382</p> <p>1 R. Figueroa</p> <p>2 e-mail that you sent on August 3, 2011, just</p> <p>3 in response to Chance Young's e-mail to you on</p> <p>4 July 29, 2011 requesting you to address</p> <p>5 certain aspects of the July 25, 2011 incident.</p> <p>6 That's all I'm asking.</p> <p>7 Can you read the question back for</p> <p>8 him, please?</p> <p>9 (Question read.)</p> <p>10 A. Well, without being able to see the</p> <p>11 whole thing, I will say for the purpose of</p> <p>12 these proceedings, I would answer yes.</p> <p>13 Q. Okay. So on Defendant's Exhibit 13</p> <p>14 towards the bottom of the first page you see</p> <p>15 an e-mail, this July 29, 2011 e-mail from</p> <p>16 Chance Young to you where he had requested you</p> <p>17 to address certain aspects of this July 25,</p> <p>18 2011 incident, specifically there were three</p> <p>19 aspects that Deputy Supervisor Chance Young</p> <p>20 asked you to address. And when you look</p> <p>21 towards the bottom of the first page carrying</p> <p>22 over onto the second page of Defendant's</p> <p>23 Exhibit 13, you see those three specific</p> <p>24 aspects, the first being that SCBPO Cano</p> <p>25 instructed you to report to primary booth</p>	<p style="text-align: right;">Page 384</p> <p>1 R. Figueroa</p> <p>2 Q. So let's just go through each of the</p> <p>3 responses that you noted on top of Defendant's</p> <p>4 Exhibit 13. And let's start -- okay, so in</p> <p>5 response to the question of whether you</p> <p>6 refused to report to primary booth number 32</p> <p>7 after being instructed to do so by Mr. Cano</p> <p>8 you wrote, "I did not refuse to report to</p> <p>9 primary booth number 32."</p> <p>10 Can you explain to me how did you not</p> <p>11 refuse to report to primary booth number 32</p> <p>12 after being told to do so by Mr. Cano?</p> <p>13 MR. WOLIN: Objection.</p> <p>14 Answer it.</p> <p>15 A. I didn't refuse.</p> <p>16 Q. How did you not refuse?</p> <p>17 A. I did not refuse.</p> <p>18 MR. WOLIN: Objection.</p> <p>19 Q. But I'm asking you how. You are</p> <p>20 telling me you did not refuse. My question to</p> <p>21 you, sir, is how did you not refuse?</p> <p>22 Did you tell him that I would go to</p> <p>23 booth 32? Did you indicate to him by</p> <p>24 gestures? How exactly, sir, did you refuse to</p> <p>25 report to primary booth 32?</p>

RICHARD FIGUEROA Volume II
 RICHARD FIGUEROA vs. JANET NAPOLITANO

May 20, 2013
 385-388

<p style="text-align: right;">Page 385</p> <p>1 R. Figueroa</p> <p>2 A. Once again, I did not refuse to</p> <p>3 report to primary booth 32.</p> <p>4 Q. How did you not refuse to go to booth</p> <p>5 number 32? How?</p> <p>6 A. I told him the booth 32 is occupied,</p> <p>7 I couldn't occupy an already occupied booth.</p> <p>8 That is not a refusal.</p> <p>9 How can I sit down in a booth that's</p> <p>10 already taken by somebody else? How am I</p> <p>11 going to do that? That is not a refusal.</p> <p>12 Q. But at a certain point in time</p> <p>13 supervisor Cano had told you to report to</p> <p>14 booth 32; right?</p> <p>15 MR. WOLIN: Objection.</p> <p>16 MR. LYNCH: Correct.</p> <p>17 MR. WOLIN: Objection.</p> <p>18 A. No.</p> <p>19 Q. So you are saying at no point in time</p> <p>20 on July 25, 2011 that supervisor Cano directed</p> <p>21 you to report to booth 32?</p> <p>22 A. No, he didn't. He told me you are</p> <p>23 supposed to work at booth number 32. He never</p> <p>24 told me your assignment today is booth number</p> <p>25 32. He never told me that.</p>	<p style="text-align: right;">Page 387</p> <p>1 R. Figueroa</p> <p>2 MR. LYNCH: Just state your objection</p> <p>3 Alan, that's it.</p> <p>4 A. I'll put an end to this. No, he did</p> <p>5 not.</p> <p>6 Q. Okay. All right. So now in response</p> <p>7 to the question basically of whether you</p> <p>8 refused to fill out a leave slip for requested</p> <p>9 sick leave after Mr. Cano instructed you to</p> <p>10 fill one out you wrote, "I was ill, reported</p> <p>11 my condition to SCBPO Cano and departed to</p> <p>12 seek medical attention."</p> <p>13 Now, when you began feeling ill, did</p> <p>14 you request an ambulance or some other</p> <p>15 immediate medical attention that day on</p> <p>16 July 25, 2011?</p> <p>17 A. I requested that I wanted to go home</p> <p>18 and seek medical attention.</p> <p>19 Q. So you indicated that you wanted to</p> <p>20 go home?</p> <p>21 A. I indicated that I was sick and I</p> <p>22 wanted to go home to seek medical attention.</p> <p>23 Q. Well, and did you explain why you</p> <p>24 wanted to go home to seek medical attention?</p> <p>25 A. What do you mean did I explain?</p>
<p style="text-align: right;">Page 386</p> <p>1 R. Figueroa</p> <p>2 Q. Okay. So then that's my question.</p> <p>3 At a certain point in time he directed you to</p> <p>4 report to booth 32?</p> <p>5 MR. WOLIN: Objection.</p> <p>6 He just said no.</p> <p>7 MR. LYNCH: Can you read his answer?</p> <p>8 (Answer read.)</p> <p>9 Q. So he told you on July 25, 2011, that</p> <p>10 you were to report to booth 32; correct?</p> <p>11 A. He advised me that I was supposed to</p> <p>12 work in booth number 32. He never told me I</p> <p>13 had to work in booth number 32.</p> <p>14 Q. Okay. Well, did there come a point</p> <p>15 in time on July 25, 2011 when you were having</p> <p>16 this discussion with supervisor Cano, okay,</p> <p>17 that he said to you you are to report to booth</p> <p>18 32?</p> <p>19 MR. WOLIN: Objection.</p> <p>20 A. No, he did not.</p> <p>21 Q. So at no point in time did he tell</p> <p>22 you, supervisor Cano, that you are to go to</p> <p>23 booth 32?</p> <p>24 MR. WOLIN: Objection.</p> <p>25 He just said no.</p>	<p style="text-align: right;">Page 388</p> <p>1 R. Figueroa</p> <p>2 Q. In other words, you are saying I need</p> <p>3 to go home to seek medical attention.</p> <p>4 Did you explain further what was the</p> <p>5 medical attention you needed to seek when you</p> <p>6 got home?</p> <p>7 A. I said that I was feeling ill. "I'm</p> <p>8 feeling sick, I'm going to go home and seek</p> <p>9 medical attention."</p> <p>10 Q. Did you, in fact, go home on July 25,</p> <p>11 2011?</p> <p>12 A. Eventually I went home, yes.</p> <p>13 Q. What time did you go home?</p> <p>14 A. I don't remember.</p> <p>15 Q. When you got home on that day,</p> <p>16 July 25, 2011, did you seek medical attention?</p> <p>17 A. I sought medical attention before I</p> <p>18 went home.</p> <p>19 Q. Okay. At what point in time on</p> <p>20 July 25, 2011 did you seek medical attention?</p> <p>21 A. Immediately leaving the airport.</p> <p>22 Q. What time did you leave the airport?</p> <p>23 A. Around 4:30.</p> <p>24 Q. So when you left the airport, JFK</p> <p>25 Airport on July 25, 2011, what did you do?</p>

RICHARD FIGUEROA Volume II
 RICHARD FIGUEROA vs. JANET NAPOLITANO

May 20, 2013
 397-400

<p style="text-align: right;">Page 397</p> <p>1 R. Figueroa</p> <p>2 on the first page of Defendant's Exhibit 13</p> <p>3 and you also wrote that "In regards to being</p> <p>4 listed as AWOP, as I had sufficient sick leave</p> <p>5 accrued on July 25, 2011, COSS should be</p> <p>6 adjusted."</p> <p>7 What's AWOP that you are referring</p> <p>8 to?</p> <p>9 A. Absent without permission.</p> <p>10 Q. And when you were referring to COSS,</p> <p>11 can you explain that?</p> <p>12 MR. WOLIN: Objection.</p> <p>13 I think we had that testimony last</p> <p>14 time, but you can answer it again.</p> <p>15 A. That's a computer scheduling system.</p> <p>16 Q. And when you say that you had accrued</p> <p>17 sufficient sick leave on July 25, 2011, how</p> <p>18 much sick leave did you have accrued during</p> <p>19 that period?</p> <p>20 A. I don't remember, but it was in</p> <p>21 abundance of the time that I was going to be</p> <p>22 absent for that day.</p> <p>23 Q. So do you believe that the sick leave</p> <p>24 that you had accrued as of July 25, 2011 had</p> <p>25 entitled you to be able to take sick leave</p>	<p style="text-align: right;">Page 399</p> <p>1 R. Figueroa</p> <p>2 marked as Defendant's Exhibit 14. I want you</p> <p>3 to take a moment to review it and then I'm</p> <p>4 going to ask you some questions.</p> <p>5 Are you finished?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. All right. So Defendant's</p> <p>8 Exhibit 14 is a copy of CBP's leave handbook</p> <p>9 as of February of 2007, and I want to direct</p> <p>10 your attention to what's Bates stamped page</p> <p>11 number DHS 1701.</p> <p>12 It's at the top of the page is the</p> <p>13 section regarding requesting sick leave, and</p> <p>14 it's number 6 in that section.</p> <p>15 Do you see what I'm referring to?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And specifically I want to</p> <p>18 direct your attention to the section under the</p> <p>19 requesting sick leave paragraph that's</p> <p>20 entitled "unscheduled sick leave."</p> <p>21 And according to the second paragraph</p> <p>22 it says that, "The employee should submit a</p> <p>23 completed OPM form 71 paper or electronic to</p> <p>24 his or her supervisor immediately upon return</p> <p>25 to duty and is responsible for providing</p>
<p style="text-align: right;">Page 398</p> <p>1 R. Figueroa</p> <p>2 without having to fill out any type of forms?</p> <p>3 MR. WOLIN: Objection.</p> <p>4 You can answer it.</p> <p>5 A. No, I told you, the procedures were</p> <p>6 you have to notify a supervisor that you are</p> <p>7 going sick.</p> <p>8 Once you have done that, you have</p> <p>9 satisfied your obligation and you go sick.</p> <p>10 I explained to you as an example,</p> <p>11 when an officer calls in and he is at home and</p> <p>12 he calls in over the phone, there are no forms</p> <p>13 to be filled out. They don't instruct the</p> <p>14 officer, fill out a form and fax it to me.</p> <p>15 There are no forms that are filled out at that</p> <p>16 time or when the officer arrives back from</p> <p>17 work.</p> <p>18 I don't understand why it was in</p> <p>19 officer Cano's forefront of his mind that I</p> <p>20 fill out a form, no one else does.</p> <p>21 MR. LYNCH: All right. Mark this.</p> <p>22 (Defendant's Exhibit 14, Copy of</p> <p>23 CBP's leave handbook as of February of 2007</p> <p>24 was so marked for identification.)</p> <p>25 Q. I'm going to show you what's been</p>	<p style="text-align: right;">Page 400</p> <p>1 R. Figueroa</p> <p>2 administratively acceptable evidence to</p> <p>3 support his or her request for sick leave as</p> <p>4 required by the supervisor."</p> <p>5 Now, after you had went out sick on</p> <p>6 July 25, 2011, did you ever submit this OPM</p> <p>7 form 71 to your supervisor at that time, Mr.</p> <p>8 Cano, when you returned to work after leaving</p> <p>9 early on July 25, 2011?</p> <p>10 A. No.</p> <p>11 Q. Okay. And why not?</p> <p>12 A. He never requested it. As it</p> <p>13 stipulates here, he's got to request it. It</p> <p>14 was never requested. Or do you have something</p> <p>15 in your file that shows he did? Because I</p> <p>16 never got it.</p> <p>17 Q. Well, according to here, just</p> <p>18 focusing, it says "The employee should submit</p> <p>19 a completed OPM form 71 to his supervisor</p> <p>20 immediately upon return to duty and he is</p> <p>21 responsible for providing administratively</p> <p>22 acceptable evidence to support his or her</p> <p>23 request for sick leave as required by the</p> <p>24 supervisor."</p> <p>25 So what you are referring to is just</p>

RICHARD FIGUEROA Volume II
 RICHARD FIGUEROA vs. JANET NAPOLITANO

May 20, 2013
 405-408

<p style="text-align: right;">Page 405</p> <p>1 R. Figueroa</p> <p>2 that you would clear out the booth and go to</p> <p>3 the assigned booth he was directing you to?</p> <p>4 A. Sir, first of all, I'm not a janitor.</p> <p>5 Are you going to let me answer?</p> <p>6 My duties are just to show up and do</p> <p>7 an officer's duty. These possessions belonged</p> <p>8 to someone else. I am not touching someone</p> <p>9 else's possessions.</p> <p>10 If supervisor Cano wanted to get the</p> <p>11 officer who these possessions belong to and</p> <p>12 have him remove it, then that would have been</p> <p>13 fine, the booth would have been empty, I would</p> <p>14 have occupied it.</p> <p>15 Q. Did you tell supervisor Cano that you</p> <p>16 would occupy the booth if the other officer's</p> <p>17 belongings were removed on July 25, 2011?</p> <p>18 A. Well, I don't see --</p> <p>19 MR. WOLIN: Just answer the question.</p> <p>20 A. I don't see how supervisor Cano</p> <p>21 didn't think of that option himself.</p> <p>22 MR. LYNCH: Can you read the question</p> <p>23 back?</p> <p>24 MR. WOLIN: I don't know that she has</p> <p>25 to read the question back.</p>	<p style="text-align: right;">Page 407</p> <p>1 R. Figueroa</p> <p>2 Q. I understand that, Mr. Figueroa.</p> <p>3 MR. WOLIN: All this is argument.</p> <p>4 This is a simple interaction between him and</p> <p>5 the supervisor and we keep going back and</p> <p>6 forth over it 25 different times.</p> <p>7 MR. LYNCH: Can you read the question</p> <p>8 back?</p> <p>9 I just need you to answer only my</p> <p>10 question, sir, that's all.</p> <p>11 Can you just read my question back?</p> <p>12 Thank you.</p> <p>13 (Question read.)</p> <p>14 MR. WOLIN: Objection.</p> <p>15 Q. So my question is did you say</p> <p>16 anything to supervisor Cano on July 25, 2011</p> <p>17 that you would occupy the booth that he was</p> <p>18 directing you to report to under any set of</p> <p>19 circumstances, okay? That's my question to</p> <p>20 you, whether it was that somebody else get the</p> <p>21 other officer's belongings out of the booth,</p> <p>22 he was directing you to report to.</p> <p>23 So just my question is did you say</p> <p>24 anything to supervisor Cano on July 25, 2011</p> <p>25 to indicate that you would occupy the booth he</p>
<p style="text-align: right;">Page 406</p> <p>1 R. Figueroa</p> <p>2 MR. LYNCH: Well, read the question</p> <p>3 back because I don't want any misunderstanding.</p> <p>4 MR. WOLIN: He didn't say he didn't</p> <p>5 understand it</p> <p>6 (Question read.)</p> <p>7 A. No.</p> <p>8 Q. Did you say anything supervisor Cano</p> <p>9 on July 25, 2011 to indicate that you would</p> <p>10 occupy the booth he was directing you to</p> <p>11 report to in any set of circumstances?</p> <p>12 MR. WOLIN: Objection.</p> <p>13 Answer it.</p> <p>14 A. It is not my duty to furnish</p> <p>15 supervisor Cano a solution to this problem.</p> <p>16 He is a supervisor, he is being paid extra</p> <p>17 money to solve these problems himself.</p> <p>18 He is telling me to occupy a booth</p> <p>19 that's already occupied. I tell him I don't</p> <p>20 see how I can occupy a booth that is already</p> <p>21 occupied by someone else, it is up supervisor</p> <p>22 Cano to provide a solution. It is not my job</p> <p>23 or position as a CBP officer to furnish a</p> <p>24 solution to a supervisory issue to a</p> <p>25 supervisor.</p>	<p style="text-align: right;">Page 408</p> <p>1 R. Figueroa</p> <p>2 was directing you to under any set of</p> <p>3 circumstances? That's all I'm asking you.</p> <p>4 MR. WOLIN: I objected to the</p> <p>5 question.</p> <p>6 Just answer it.</p> <p>7 A. You are asking me to provide an</p> <p>8 answer for something that did not occur.</p> <p>9 Supervisor Cano gave me no options whatsoever.</p> <p>10 So I am not there to provide supervisor Cano</p> <p>11 with an option. Supervisor Cano is obligated</p> <p>12 to provide me with one.</p> <p>13 Nor did I refuse to occupy that booth</p> <p>14 if he give me a solution.</p> <p>15 Q. Okay, but that's my question.</p> <p>16 Did you, I'm not asking about Cano at</p> <p>17 this point, I'm not asking about him, I'm just</p> <p>18 concerned about your actions, what you did,</p> <p>19 anything you said.</p> <p>20 Did you say anything to supervisor</p> <p>21 Cano to indicate that you would occupy the</p> <p>22 booth that he was directing you to report to</p> <p>23 under any set of circumstances? Just you I'm</p> <p>24 focused on, Mr. Figueroa, that's it.</p> <p>25 MR. WOLIN: Objection.</p>

RICHARD FIGUEROA Volume II
 RICHARD FIGUEROA vs. JANET NAPOLITANO

May 20, 2013
 409-412

<p style="text-align: right;">Page 409</p> <p>1 R. Figueroa</p> <p>2 A. I never got that far, because that</p> <p>3 option was never provided to me.</p> <p>4 MR. WOLIN: Just answer it yes or no,</p> <p>5 if you can.</p> <p>6 MR. LYNCH: Answer my question.</p> <p>7 Can you read my question back.</p> <p>8 MR. WOLIN: No, we have already read</p> <p>9 it back four times, we don't have to read it</p> <p>10 back again.</p> <p>11 Q. Hold it, stop. I want to make sure</p> <p>12 the record it clear.</p> <p>13 Did you say anything to supervisor</p> <p>14 Cano to indicate that you would occupy the</p> <p>15 booth he was directing you to report to under</p> <p>16 any set of circumstances? That's my question.</p> <p>17 MR. WOLIN: Objection.</p> <p>18 If you can just answer it yes or no</p> <p>19 so we can move on.</p> <p>20 A. No. Nor did I refuse.</p> <p>21 MR. WOLIN: Okay. You have your</p> <p>22 answer. Can we move on?</p> <p>23 MR. LYNCH: Can you just read that</p> <p>24 back for me, please?</p> <p>25 MR. WOLIN: For the fifth time.</p>	<p style="text-align: right;">Page 411</p> <p>1 R. Figueroa</p> <p>2 Cano instruct you to submit this OPM form 71?</p> <p>3 MR. WOLIN: Objection.</p> <p>4 Answer it again.</p> <p>5 A. Yes, he never told me to submit the</p> <p>6 form.</p> <p>7 Q. So just directing your attention to</p> <p>8 the second charge that's listed on Defendant's</p> <p>9 Exhibit 11 under absence without leave, that</p> <p>10 being the charge I'm referring to, and it</p> <p>11 indicates that under this second charge that</p> <p>12 on July 25, 2011 after he had been scheduled</p> <p>13 to work the 4:00 p.m. to 12:00 a.m. shift and</p> <p>14 had left early that day, you did not submit a</p> <p>15 request for leave or approved absence, this</p> <p>16 OPM form 71, we have been discussing, and as a</p> <p>17 result of that you had been charged with</p> <p>18 7.25 hours of absence without leave?</p> <p>19 And just to make sure we are clear,</p> <p>20 at no point after this, July 25, 2011, did you</p> <p>21 submit this OPM form 71?</p> <p>22 MR. WOLIN: Objection.</p> <p>23 Answer it again.</p> <p>24 A. Just so we are clear, I was never</p> <p>25 instructed to.</p>
<p style="text-align: right;">Page 410</p> <p>1 R. Figueroa</p> <p>2 Q. Okay. All right. So still focused</p> <p>3 on this charge number one, failure to follow</p> <p>4 supervisory instructions that's listed on</p> <p>5 Defendant's Exhibit 11, and the second ground</p> <p>6 under the first charge of failure to follow</p> <p>7 supervisory instructions.</p> <p>8 According to the second ground, on</p> <p>9 July 25, 2011, you left before the end of your</p> <p>10 tour because you were sick, but before doing</p> <p>11 so your supervisor, Mr. Cano, had instructed</p> <p>12 you to submit a request for leave or approved</p> <p>13 absence, this OPM form 71, before you departed</p> <p>14 that day.</p> <p>15 So according to this second ground in</p> <p>16 support of the first charge, at a certain</p> <p>17 point in time on July 25, 2011, Mr. Cano had</p> <p>18 instructed you to submit this OPM form 71,</p> <p>19 okay.</p> <p>20 MR. WOLIN: Is that a question.</p> <p>21 MR. LYNCH: Let me finish.</p> <p>22 MR. WOLIN: Okay.</p> <p>23 MR. LYNCH: All right.</p> <p>24 Q. And is it your testimony today that</p> <p>25 on July 25, 2011 at no time did supervisor</p>	<p style="text-align: right;">Page 412</p> <p>1 R. Figueroa</p> <p>2 Q. Okay. So --</p> <p>3 A. So I did not.</p> <p>4 Q. Okay. So then I want to direct your</p> <p>5 attention to the third charge that's listed on</p> <p>6 Defendant's Exhibit 11, this third charge of</p> <p>7 unprofessional conduct.</p> <p>8 And in support of this charge under</p> <p>9 the first ground it indicates that on July 25,</p> <p>10 2011 after your supervisor Mr. Cano had</p> <p>11 instructed you to move to your assigned booth,</p> <p>12 you had responded in sum and substance that</p> <p>13 someone else's bag was in your assigned booth</p> <p>14 and that it was not your job to insure that</p> <p>15 your booth was ready.</p> <p>16 Did you in sum and substance tell Mr.</p> <p>17 Cano on July 25, 2011, after he had instructed</p> <p>18 you to move to an assigned booth, that not</p> <p>19 only was someone else's bag in the assigned</p> <p>20 booth, but that it wasn't your job to insure</p> <p>21 that the booth should be ready for you?</p> <p>22 MR. WOLIN: Objection.</p> <p>23 Answer it again.</p> <p>24 A. It's not my job to see to it that the</p> <p>25 booth is available for me. This is his</p>

RICHARD FIGUEROA Volume II
 RICHARD FIGUEROA vs. JANET NAPOLITANO

May 20, 2013
 417-420

<p style="text-align: right;">Page 417</p> <p>1 R. Figueroa</p> <p>2 MR. WOLIN: Objection.</p> <p>3 A. That is totally false. I was never</p> <p>4 instructed to fill out the form.</p> <p>5 MR. LYNCH: Okay. That's all I'm</p> <p>6 asking. Thank you. All right. So why don't</p> <p>7 we take -- it's 1:00, let's reconvene at 2:00;</p> <p>8 all right?</p> <p>9 MR. WOLIN: Fine.</p> <p>10 MR. LYNCH: Thank you.</p> <p>11 (Whereupon, a luncheon recess was</p> <p>12 taken at 1:00 p.m.)</p> <p>13 AFTERNOON SESSION:</p> <p>14 (Whereupon, the proceedings resumed</p> <p>15 at 2:00 p.m.)</p> <p>16 (Defendant's Exhibit 15, Letter dated</p> <p>17 May 23, 2012 from CBP acting port director</p> <p>18 Wayne Biondi was so marked for</p> <p>19 identification.)</p> <p>20 BY MR. LYNCH:</p> <p>21 Q. So I'm handing you, Mr. Figueroa,</p> <p>22 what's been marked as Defendant's Exhibit 15.</p> <p>23 Just take a moment to review it, sir,</p> <p>24 and just let me know when you are finished?</p> <p>25 A. Okay.</p>	<p style="text-align: right;">Page 419</p> <p>1 R. Figueroa</p> <p>2 of 2012.</p> <p>3 Did you, in fact, carry out your</p> <p>4 suspension on June 27th of 2012?</p> <p>5 A. Yes, I did serve a two-day suspension</p> <p>6 for that time period.</p> <p>7 Q. And did you return to duty on</p> <p>8 June 29, 2012?</p> <p>9 A. Yes.</p> <p>10 MR. LYNCH: Mark this.</p> <p>11 (Defendant's Exhibit 16, Letter dated</p> <p>12 February 22, 2012 was so marked for</p> <p>13 identification.)</p> <p>14 Q. And you've been handed what's been</p> <p>15 marked as Defendant's Exhibit 16, a copy has</p> <p>16 been handed to your counsel.</p> <p>17 If you can just take a moment to</p> <p>18 review it and just let me know when you are</p> <p>19 finished?</p> <p>20 A. Okay.</p> <p>21 Q. Okay. Do you recognize this</p> <p>22 document, Defendant's Exhibit 16, Mr.</p> <p>23 Figueroa?</p> <p>24 A. Yes.</p> <p>25 Q. Can you tell me what it is, sir?</p>
<p style="text-align: right;">Page 418</p> <p>1 R. Figueroa</p> <p>2 Q. Do you recognize this document,</p> <p>3 Defendant's Exhibit 15, sir?</p> <p>4 A. Yes.</p> <p>5 Q. Can you tell me what it is, sir?</p> <p>6 A. It is a final decision to suspend me</p> <p>7 for two days.</p> <p>8 Q. Okay. Defendant's Exhibit 15 is also</p> <p>9 a letter that's been -- do you recognize this</p> <p>10 document as a letter dated May 23, 2012, from</p> <p>11 CBP acting port director Wayne Biondi to you</p> <p>12 regarding a decision to suspend you?</p> <p>13 A. Yes.</p> <p>14 Q. And according to Defendant's</p> <p>15 Exhibit 15, CBP's acting port director Wayne</p> <p>16 Biondi had upheld the proposed two-day</p> <p>17 suspension that had been issued on</p> <p>18 November 29th of 2011; that November 29, 2011</p> <p>19 notice of proposal to suspend that we have</p> <p>20 been discussing.</p> <p>21 And according to Defendant's</p> <p>22 Exhibit 15, CBP's acting port director Wayne</p> <p>23 Biondi had determined that your two-day</p> <p>24 suspension would be effective June 27, 2012,</p> <p>25 and that you would return to duty on June 29th</p>	<p style="text-align: right;">Page 420</p> <p>1 R. Figueroa</p> <p>2 A. It's a suspension proposal for</p> <p>3 14 days.</p> <p>4 Q. And specifically, Defendant's</p> <p>5 Exhibit 16 is a letter dated February 22, 2012</p> <p>6 to you regarding a CBP's notice of proposal to</p> <p>7 suspend you for 14 calendar days.</p> <p>8 Do you recall receiving Defendant's</p> <p>9 Exhibit 16 on or around February 22nd of 2012,</p> <p>10 sir?</p> <p>11 A. Yes.</p> <p>12 Q. And on occasion I'll refer to</p> <p>13 Defendant's Exhibit 16 as this February 22</p> <p>14 2012 notice of proposal to suspend; okay?</p> <p>15 A. Okay.</p> <p>16 Q. And according to the February 22,</p> <p>17 2012 notice of proposal to suspend, CBP's</p> <p>18 assistant port director John Mironadona had</p> <p>19 proposed to suspend you for 14 days in</p> <p>20 connection with an incident that occurred when</p> <p>21 you were assigned to work overtime on</p> <p>22 November 25th of 2011.</p> <p>23 And Defendant's Exhibit 16 sets forth</p> <p>24 the following charge upon which CBP had</p> <p>25 proposed to suspend you which was "willful and</p>

RICHARD FIGUEROA Volume II
 RICHARD FIGUEROA vs. JANET NAPOLITANO

May 20, 2013
 421-424

Page 421	Page 423
<p>1 R. Figueroa</p> <p>2 intentional refusal to obey a proper order of</p> <p>3 a superior."</p> <p>4 Before going into the charge I want</p> <p>5 to ask you a few questions, first talking</p> <p>6 about where you were assigned back in November</p> <p>7 of 2011, how the overtime assignment process</p> <p>8 worked, and then what happened on</p> <p>9 November 25th of 2011; okay?</p> <p>10 A. Okay.</p> <p>11 Q. So just focusing in November of 2011,</p> <p>12 which branch were you generally assigned to</p> <p>13 work during that time period, sir?</p> <p>14 A. The firearms division.</p> <p>15 Q. And generally, what time did you</p> <p>16 report for duty back in November of 2011?</p> <p>17 A. Well, we had two shifts, an 8:00 to</p> <p>18 4:00 shift and a 12:00 to 8:00, 12:00 p.m. to</p> <p>19 8:00 a.m.</p> <p>20 Q. And did you generally work both</p> <p>21 shifts back in November of 2011?</p> <p>22 A. We started out working both shifts,</p> <p>23 and then it kind of morphed into certain</p> <p>24 people would rather do the days, certain other</p> <p>25 people would rather do the p.m. shifts. So it</p>	<p>1 R. Figueroa</p> <p>2 Pisciotta, she was female; correct?</p> <p>3 A. Yes.</p> <p>4 Q. And what's Ms. Pisciotta's race?</p> <p>5 A. She is a white female.</p> <p>6 Q. Do you know Ms. Pisciotta's national</p> <p>7 origin?</p> <p>8 A. No.</p> <p>9 Q. I believe you had mentioned Frank</p> <p>10 Siniscalchi before. He is male; correct?</p> <p>11 A. Yes.</p> <p>12 Q. And his race is white; correct?</p> <p>13 A. Yes.</p> <p>14 Q. And in terms of national origin, do</p> <p>15 you know?</p> <p>16 A. I don't know.</p> <p>17 Q. Can you tell me, back in November of</p> <p>18 2011, how did the overtime assignment process</p> <p>19 work, in general?</p> <p>20 A. Well, the way it's supposed to work</p> <p>21 is if an officer wants to volunteer for</p> <p>22 overtime, you'll call in and get your name</p> <p>23 placed on the list.</p> <p>24 And then if you are one of the people</p> <p>25 with the least amount of overtime earnings to</p>
Page 422	Page 424
<p>1 R. Figueroa</p> <p>2 eventually became a steady shift operation.</p> <p>3 So I was either working both shifts</p> <p>4 during this time period, or maybe working in</p> <p>5 one a little bit more than the other.</p> <p>6 Q. And when we got to the actual day of</p> <p>7 November 25th of 2011, what shift did you work</p> <p>8 on that day?</p> <p>9 A. The 12:00 to 8:00.</p> <p>10 Q. And that's the 12:00 p.m. to</p> <p>11 8:00 a.m. shift?</p> <p>12 A. No, no, no, 12:00 p.m. to 8:00 p.m.</p> <p>13 shift.</p> <p>14 Q. To 8:00 p.m. shift, I'm sorry.</p> <p>15 Okay. And who were your supervisors</p> <p>16 back in November of 2011?</p> <p>17 A. Supervisor Deborah Pisciotta.</p> <p>18 Q. To the best you can, how do you spell</p> <p>19 her last name?</p> <p>20 A. P-I-S-C-I-O-T-T-A.</p> <p>21 Q. And besides Ms. Deborah Pisciotta?</p> <p>22 A. Frank Siniscalchi.</p> <p>23 Q. Anyone else?</p> <p>24 A. No.</p> <p>25 Q. And with respect to Ms. Deborah</p>	<p>1 R. Figueroa</p> <p>2 date, you'll get the assignment.</p> <p>3 Q. Okay. So back in November of 2011,</p> <p>4 it wasn't as if overtime assignments were</p> <p>5 mandatory?</p> <p>6 A. No, there could have been two. If</p> <p>7 you didn't want to work overtime and they</p> <p>8 needed people and your overtime earnings were</p> <p>9 low, then you can get drafted as well.</p> <p>10 Q. Now, just focusing on November 25th</p> <p>11 of 2011, did you request at all to work an</p> <p>12 overtime assignment?</p> <p>13 A. Yes, I did.</p> <p>14 Q. Can you tell me what was the nature</p> <p>15 of your request to work this overtime</p> <p>16 assignment?</p> <p>17 A. I don't understand.</p> <p>18 Q. Prior to November 25th of 2011, did</p> <p>19 you put in to request overtime -- to work an</p> <p>20 overtime assignment that day?</p> <p>21 A. No, you put it in on a daily basis.</p> <p>22 Q. Okay.</p> <p>23 A. So I -- on November 25th, I phoned</p> <p>24 and I volunteered to work overtime that day.</p> <p>25 Q. So how did it work? So on</p>

RICHARD FIGUEROA Volume II
 RICHARD FIGUEROA vs. JANET NAPOLITANO

May 20, 2013
 425-428

<p style="text-align: right;">Page 425</p> <p>1 R. Figueroa</p> <p>2 November 25, 2011 you were working the</p> <p>3 12:00 p.m. to 8:00 p.m. shift; right?</p> <p>4 A. I'm sorry, say that again?</p> <p>5 Q. So how did it work? So on</p> <p>6 November 25, 2011, you were assigned to work</p> <p>7 your regular shift at 12:00 p.m. to 8:00 p.m.;</p> <p>8 right?</p> <p>9 A. Yes.</p> <p>10 Q. And so is it that when you reported</p> <p>11 to work that day at a certain point in time</p> <p>12 that day you had decided to request overtime?</p> <p>13 A. No, you generally request it at the</p> <p>14 start of your shift.</p> <p>15 Q. Okay. So what time did you report to</p> <p>16 work on November 25, 2011?</p> <p>17 A. 12:00.</p> <p>18 Q. Okay. And tell me what happened once</p> <p>19 you reported to work from where you</p> <p>20 specifically went once you arrived to the JFK</p> <p>21 facility?</p> <p>22 A. Okay. Well, there are firearms</p> <p>23 sessions that have to be given to qualify the</p> <p>24 officers in the use of their firearms. And</p> <p>25 you would participate in these sessions,</p>	<p style="text-align: right;">Page 427</p> <p>1 R. Figueroa</p> <p>2 that point?</p> <p>3 A. I made a notation on the sign-in</p> <p>4 sheet that I was volunteering for overtime,</p> <p>5 and then someone else calls over the</p> <p>6 volunteers sometime shortly thereafter.</p> <p>7 Q. And what made you decide to volunteer</p> <p>8 to work an overtime assignment on that day?</p> <p>9 A. Well, it's something that we have to</p> <p>10 do. So on days that it is more convenient</p> <p>11 than others, that is to say, you know, there</p> <p>12 are no babysitting issues for people or they</p> <p>13 don't have to go somewhere very early the next</p> <p>14 morning, if you don't have anything that's</p> <p>15 pending, you'll decide to work overtime so</p> <p>16 that you can maintain your numbers and not</p> <p>17 become one of these people that may get</p> <p>18 drafted at a moment's notice.</p> <p>19 Q. And what exactly was the overtime</p> <p>20 assignment that you had volunteered for on</p> <p>21 November 25, 2011?</p> <p>22 A. Well, you volunteer for overtime,</p> <p>23 they will instruct you as to what your</p> <p>24 assignment is going to be when they notify you</p> <p>25 as to whether or not you have been selected</p>
<p style="text-align: right;">Page 426</p> <p>1 R. Figueroa</p> <p>2 either giving the lecture for that day or</p> <p>3 assisting when the officers actually shoot on</p> <p>4 the range to oversee the shooters to make sure</p> <p>5 there aren't any mistakes or any injuries that</p> <p>6 may occur.</p> <p>7 Q. So when you reported to work on</p> <p>8 November 25th of 2011 at 12:00 p.m., did you</p> <p>9 report somewhere to sign-in for work?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Where did you report?</p> <p>12 A. At the firearms officer's office.</p> <p>13 Q. Where is the firearms officer's</p> <p>14 office back in that time on November 25th of</p> <p>15 2011?</p> <p>16 A. It's on the mezzanine level of</p> <p>17 Building 77.</p> <p>18 Q. So when you reported to the mezzanine</p> <p>19 level of Building 77 where the firearms</p> <p>20 officer's office was, what was the first thing</p> <p>21 you did when you got there on November 25,</p> <p>22 2011?</p> <p>23 A. I signed in.</p> <p>24 Q. And at the point that you signed in,</p> <p>25 did you then request an overtime assignment at</p>	<p style="text-align: right;">Page 428</p> <p>1 R. Figueroa</p> <p>2 for an overtime assignment.</p> <p>3 Q. And in terms of overtime back in</p> <p>4 November of 2011, is it an overtime assignment</p> <p>5 constitutes a full additional shift? What</p> <p>6 exactly is the overtime in terms of hours?</p> <p>7 A. No, it can include that, but</p> <p>8 generally speaking at JFK, it depends on the</p> <p>9 shift that you are coming from.</p> <p>10 Now, if I'm coming from a 12:00 to</p> <p>11 8:00 shift, my overtime would generally be</p> <p>12 from 8 to midnight.</p> <p>13 Q. So back on November 25th of 2011 when</p> <p>14 you volunteered for this overtime assignment,</p> <p>15 was that going to run from 8:00 p.m. to 12</p> <p>16 midnight that day?</p> <p>17 A. Yes.</p> <p>18 Q. And after you had volunteered to work</p> <p>19 an overtime assignment that day, how soon</p> <p>20 after did you find out whether or not your</p> <p>21 assignment had been accepted?</p> <p>22 A. Sometime around 5:00 in the evening.</p> <p>23 Q. So how did you learn that your</p> <p>24 request to work an overtime assignment around</p> <p>25 5:00 p.m. on the evening of November 25, 2011</p>

RICHARD FIGUEROA Volume II
 RICHARD FIGUEROA vs. JANET NAPOLITANO

May 20, 2013
 429-432

<p style="text-align: right;">Page 429</p> <p>1 R. Figueroa</p> <p>2 had been accepted?</p> <p>3 A. Someone will tell you. They will</p> <p>4 make a phone call to the office and that phone</p> <p>5 call will consist of a listing of people who</p> <p>6 are working overtime and where they will be</p> <p>7 working. And someone will take the message</p> <p>8 and then pass it on to those who have been</p> <p>9 selected for that night.</p> <p>10 Q. So who did you learn from that your</p> <p>11 request to work this overtime assignment had</p> <p>12 been accepted?</p> <p>13 A. I don't remember, I think it was</p> <p>14 another officer.</p> <p>15 Q. Well, do you recall what was said to</p> <p>16 you when you learned that your request to work</p> <p>17 an overtime assignment had been accepted for</p> <p>18 November 25, 2011?</p> <p>19 A. Well, they told me that I had to call</p> <p>20 the overtime desk for some special instructions.</p> <p>21 Q. Okay. By "they," you are referring</p> <p>22 to?</p> <p>23 A. Whoever gave me the message that I</p> <p>24 was selected for overtime that day.</p> <p>25 Q. And so did there come a point in time</p>	<p style="text-align: right;">Page 431</p> <p>1 R. Figueroa</p> <p>2 conversation with the individual that you</p> <p>3 found out what your overtime assignment was?</p> <p>4 A. Oh, a couple of minutes.</p> <p>5 Q. What did you do next?</p> <p>6 A. Well, I questioned it, because we are</p> <p>7 over at Building 77, and the medical van</p> <p>8 facility is over at Building 75, practically</p> <p>9 right next door.</p> <p>10 Now, they wanted me to travel all the</p> <p>11 way into the terminals, which is quite a</p> <p>12 distance, just so that I can be driven back to</p> <p>13 Building 75, it didn't make any sense.</p> <p>14 Normally you would just hop on over</p> <p>15 to building number 75, but these were the</p> <p>16 instructions and those are the instructions I</p> <p>17 followed.</p> <p>18 Q. So what happened next?</p> <p>19 A. Well, when I walked into the</p> <p>20 supervisor's office at terminal 4, I was met</p> <p>21 by Deputy Chief Chance Young.</p> <p>22 Q. Now, prior to November 25, 2011, had</p> <p>23 you been supervised by Deputy Chief Chance</p> <p>24 Young before?</p> <p>25 A. On occasion I have been.</p>
<p style="text-align: right;">Page 430</p> <p>1 R. Figueroa</p> <p>2 which you called the overtime desk to find out</p> <p>3 about your overtime assignment?</p> <p>4 A. Yes.</p> <p>5 Q. And around what time was that on</p> <p>6 November 25, 2011?</p> <p>7 A. Shortly after I got the notification</p> <p>8 to call them and that I had been selected. So</p> <p>9 I would say between 5:00 and 6:00 p.m. that</p> <p>10 evening.</p> <p>11 Q. And what happened when you called to</p> <p>12 find out what the overtime assignment was?</p> <p>13 A. I was given instructions that stated</p> <p>14 that I had to appear over at the international</p> <p>15 arrivals terminal at the supervisor's office</p> <p>16 no later than 7:00 p.m. where -- I'm just</p> <p>17 taking time out for you to write.</p> <p>18 Q. No, that's fine.</p> <p>19 A. Okay. (Continuing) -- where I will</p> <p>20 be driven to the medical van facility.</p> <p>21 Q. Now, when you called to find out what</p> <p>22 your overtime assignment was on November 25th</p> <p>23 of 2011, who did you speak to?</p> <p>24 A. I don't remember.</p> <p>25 Q. And how long was the telephone</p>	<p style="text-align: right;">Page 432</p> <p>1 R. Figueroa</p> <p>2 Q. And approximately how many occasions</p> <p>3 prior to November 25, 2011 had you been</p> <p>4 supervised by Deputy Chief Chance Young?</p> <p>5 A. I cannot answer that question, only</p> <p>6 because you see the deputy chiefs are assigned</p> <p>7 to an area, and they are only assigned to that</p> <p>8 area for a certain amount of time before they</p> <p>9 get uprooted and assigned to other areas.</p> <p>10 Now, you'll be working in an area</p> <p>11 where the deputy chief in charge may be a</p> <p>12 particular person, but you may not even see</p> <p>13 them that night so you may not know that they</p> <p>14 were there.</p> <p>15 So I couldn't tell you how many times</p> <p>16 I may have been supervised by Deputy Young.</p> <p>17 Q. So when you went to the supervisor's</p> <p>18 office on November 25, 2011, Mr. Chance Young</p> <p>19 was in that office?</p> <p>20 A. Yes.</p> <p>21 Q. Was anyone else in the office besides</p> <p>22 Mr. Young?</p> <p>23 A. Yes.</p> <p>24 Q. Who else was there?</p> <p>25 A. Another supervisor, I'm trying to</p>

RICHARD FIGUEROA Volume II
 RICHARD FIGUEROA vs. JANET NAPOLITANO

May 20, 2013
 433-436

<p style="text-align: right;">Page 433</p> <p>1 R. Figueroa</p> <p>2 think of her name. Her first name is Corin.</p> <p>3 I can't think of her last name.</p> <p>4 Q. Around what time specifically did you</p> <p>5 report to the supervisor's office on November</p> <p>6 25, 2011?</p> <p>7 A. 7:00 p.m.</p> <p>8 Q. So when you reported to the</p> <p>9 supervisor's office at approximately 7:00 p.m.</p> <p>10 on November 25, 2011, in that office was</p> <p>11 supervisor Young and supervisor Corin?</p> <p>12 A. Yes.</p> <p>13 Q. Was anyone else present?</p> <p>14 A. I didn't see anyone else. Someone</p> <p>15 else may have been, I don't recall seeing</p> <p>16 anyone else.</p> <p>17 Q. So what happened when you reported to</p> <p>18 the supervisor's office at 7:00 p.m.?</p> <p>19 A. Well, Deputy Young instructed me that</p> <p>20 I was going to take an automobile that's</p> <p>21 parked on the tarmac, that is where the planes</p> <p>22 are located, and where they transport from one</p> <p>23 location to another. And that I was going to</p> <p>24 drive over to the medical van to watch</p> <p>25 prisoners while I'm there. And I instructed</p>	<p style="text-align: right;">Page 435</p> <p>1 R. Figueroa</p> <p>2 admission stamp?</p> <p>3 A. Yes. He said well, where is your</p> <p>4 stamp? Now these stamps are national security</p> <p>5 items, they have to be secured.</p> <p>6 Now, if I'm going to watch a prisoner</p> <p>7 at the medical van facility, I'm not taking my</p> <p>8 stamp with me, it may get lost.</p> <p>9 So it was secured.</p> <p>10 Q. So where was your admission stamp on</p> <p>11 November 25, 2011?</p> <p>12 A. It was secured in a locker with a</p> <p>13 padlock in a room that's locked and alarmed.</p> <p>14 Q. So where on the JFK facility was your</p> <p>15 locker where you had stored your admission</p> <p>16 stamp?</p> <p>17 A. In the shooting range.</p> <p>18 Q. And where was the shooting range at</p> <p>19 the JFK facility back in November 25, 2011?</p> <p>20 A. It's in Building 77, on the basement</p> <p>21 level.</p> <p>22 Q. In which building was the</p> <p>23 supervisor's office that you were in when you</p> <p>24 had the conversation with Mr. Young?</p> <p>25 A. At terminal 4 over by the airline</p>
<p style="text-align: right;">Page 434</p> <p>1 R. Figueroa</p> <p>2 him that I couldn't do that.</p> <p>3 Q. What did Mr. Young say in response?</p> <p>4 A. I'm taking your overtime away for</p> <p>5 refusing to obey an order.</p> <p>6 Q. And what happened next?</p> <p>7 A. Well, I was leaving because he is</p> <p>8 telling me that my overtime has now been</p> <p>9 canceled for refusing an order.</p> <p>10 And he says, "I'll tell you what, I'm</p> <p>11 going to send you over to the immigration side</p> <p>12 to stamp passports."</p> <p>13 I told him "Well, my assignment was</p> <p>14 that I was going to the medical van. So I'm</p> <p>15 prepared for that. I'm not prepared to go</p> <p>16 stamp passports over at the immigration side,</p> <p>17 but they have assignments over there that</p> <p>18 don't require any stamping, so that I'll head</p> <p>19 on over there and advise them of the</p> <p>20 circumstances."</p> <p>21 Well, he tells me, "Well, then you</p> <p>22 can't do that. So then refusing to do both</p> <p>23 assignments, I'm taking your overtime away and</p> <p>24 you can leave."</p> <p>25 Q. Did Mr. Young ask you to get your</p>	<p style="text-align: right;">Page 436</p> <p>1 R. Figueroa</p> <p>2 terminals.</p> <p>3 Q. And where is that in relation to</p> <p>4 Building 77 where you had stored your</p> <p>5 admission stamp?</p> <p>6 A. It's quite a distance away, at least</p> <p>7 a 20-minute drive on airport grounds.</p> <p>8 Q. So from where you are in terminal 4</p> <p>9 where your supervisor's office was when you</p> <p>10 were having a conversation with supervisor</p> <p>11 Young, as far as your overtime assignment,</p> <p>12 your admission stamp was approximately a</p> <p>13 20-minute drive away at Building 77?</p> <p>14 A. Yes.</p> <p>15 Q. Let me ask you prior to November 25,</p> <p>16 2011, in the other instances in which</p> <p>17 supervisor Young supervised you, had you had</p> <p>18 any issues at all with him?</p> <p>19 A. Yes.</p> <p>20 MR. WOLIN: Objection.</p> <p>21 I mean, we just discussed one. So I</p> <p>22 don't know if you are including that or not</p> <p>23 including that.</p> <p>24 Q. Well, why don't we go back and tell</p> <p>25 me about the first issue that you had with Mr.</p>

RICHARD FIGUEROA Volume II
 RICHARD FIGUEROA vs. JANET NAPOLITANO

May 20, 2013
 441-444

<p style="text-align: right;">Page 441</p> <p>1 R. Figueroa</p> <p>2 Q. So tell me about the conversation</p> <p>3 that you had with Mr. Young on either</p> <p>4 July 27th or 28th of 2011 when he was asking</p> <p>5 you about this July 25, 2011 incident.</p> <p>6 Where did it take place specifically?</p> <p>7 A. Once again, it was done in</p> <p>8 conversation. It was an interrogation that</p> <p>9 took place by my booth where supervisor Young</p> <p>10 was not asking me questions, he was demanding</p> <p>11 answers to specific questions.</p> <p>12 Q. And how was supervisor Young</p> <p>13 demanding answers to specific questions?</p> <p>14 A. He was asking me that he wanted to</p> <p>15 know the conditions that occurred that night,</p> <p>16 asking me specific questions regarding going</p> <p>17 sick.</p> <p>18 And when I then stipulated, "you</p> <p>19 know, you are interrogating me without giving</p> <p>20 me my rights," supervisor Young then shut up,</p> <p>21 stopped interrogating me and told me he was</p> <p>22 going to send me an e-mail with those very</p> <p>23 same questions.</p> <p>24 Q. And the e-mail you are referring to</p> <p>25 is this e-mail that we discussed that Mr.</p>	<p style="text-align: right;">Page 443</p> <p>1 R. Figueroa</p> <p>2 A. The next incident was on November 25,</p> <p>3 2011.</p> <p>4 Q. Okay. So when on November 25, 2011,</p> <p>5 when you are having this conversation with Mr.</p> <p>6 Young as far as your overtime assignment, was</p> <p>7 there a specific point in time when he</p> <p>8 requested that you get your admission stamp?</p> <p>9 A. No. He said "I want you to go out</p> <p>10 and get your admission stamp."</p> <p>11 And I said "Well, it's going take me</p> <p>12 some time to do that."</p> <p>13 You know, these admission stamps have</p> <p>14 to be secured by the individual officer. They</p> <p>15 give you no direction as to how to do that.</p> <p>16 They tell you it has to be secured.</p> <p>17 They provide no assistance, no</p> <p>18 facilities to secure these admission stamps.</p> <p>19 And if you lose them, you are losing a</p> <p>20 national security item that you will be in a</p> <p>21 lot of trouble for. So you have to secure</p> <p>22 them the best way.</p> <p>23 I secured mine in a building, in a</p> <p>24 metal locker with a strong lock on it, that</p> <p>25 the room is alarmed and there is also a video</p>
<p style="text-align: right;">Page 442</p> <p>1 R. Figueroa</p> <p>2 Young sent to you in July of 2011?</p> <p>3 A. Yes.</p> <p>4 Q. All right. So that was the first</p> <p>5 incident that you had with Mr. Young prior to</p> <p>6 November 25, 2011, this one that took place on</p> <p>7 either July 27th or the July 28th of 2011; is</p> <p>8 that correct?</p> <p>9 A. Well, when you say "contact with Mr.</p> <p>10 Young," we have had contact along the way</p> <p>11 before that.</p> <p>12 MR. WOLIN: I think he said</p> <p>13 "incidents."</p> <p>14 THE WITNESS: Oh "incidents," I</p> <p>15 didn't hear that.</p> <p>16 MR. LYNCH: Can you read the question</p> <p>17 back, please.</p> <p>18 That's the importance of it, Alan.</p> <p>19 MR. WOLIN: In this particular</p> <p>20 situation I agree with you.</p> <p>21 (Question read.)</p> <p>22 A. Yes.</p> <p>23 Q. And after July 27th or 28th of 2011,</p> <p>24 when was the next incident, if at all, prior</p> <p>25 to November 25, 2011 concerning Mr. Young?</p>	<p style="text-align: right;">Page 444</p> <p>1 R. Figueroa</p> <p>2 camera taping all day long so that it can be</p> <p>3 properly secured.</p> <p>4 Q. Okay.</p> <p>5 A. Mr. Young must have been assuming</p> <p>6 that I drove my car to the terminal that day</p> <p>7 and that my stamp had been in my glove</p> <p>8 compartment or the trunk of my car, which it</p> <p>9 wasn't.</p> <p>10 Q. So then from what I'm understanding</p> <p>11 from what you are saying was that Mr. Young</p> <p>12 did tell you to get your admission stamp?</p> <p>13 A. Yes, he did. He said "I want you to</p> <p>14 go and get your admission stamp and I want you</p> <p>15 to go over there and stamp."</p> <p>16 I said, "Fine. I'll do that, but</p> <p>17 it's going to take me some time, I don't have</p> <p>18 my admission stamp with me."</p> <p>19 Q. And when you said it was going to</p> <p>20 take me some time, because I don't have my</p> <p>21 admission stamp with me what, if anything, did</p> <p>22 Mr. Young say in response to that?</p> <p>23 A. He said, "I'm cancelling your</p> <p>24 overtime. I want you to leave."</p> <p>25 Q. Did you say anything in response?</p>

RICHARD FIGUEROA Volume II
 RICHARD FIGUEROA vs. JANET NAPOLITANO

May 20, 2013
 445-448

Page 445

1 R. Figueroa
 2 A. No.
 3 Q. What did you do?
 4 A. I turned around to leave.
 5 Q. And did anything else happen that day
 6 before you left the JFK facility on July 25,
 7 2011?
 8 A. I don't understand.
 9 Q. Well, you turned around and left.
 10 Did anything then happen once you
 11 turned around and left?
 12 A. I went home.
 13 Q. So after this incident involving Mr.
 14 Young on November 25, 2011, did there come a
 15 time that you were asked to provide a written
 16 statement by CBP management to address certain
 17 aspects of the incident?
 18 A. Yes, CBP had been asking me for a
 19 number of statements that always led to a
 20 suspension.
 21 MR. LYNCH: Mark this, please.
 22 (Defendant's Exhibit 17, E-mail dated
 23 December 2, 2011 was so marked for
 24 identification.)
 25 Q. I'm going to show you a document

Page 446

1 R. Figueroa
 2 marked Defendant's Exhibit 17, a copy has also
 3 been handed to counsel. Just take a moment to
 4 review it.
 5 A. Okay.
 6 Q. Defendant's Exhibit 17 is a copy of
 7 an e-mail from Mr. Frank Siniscalchi to you
 8 that was sent on Friday, December 2, 2011.
 9 Do you recall receiving an e-mail
 10 from Mr. Siniscalchi back in December of 2011?
 11 A. Yes.
 12 Q. And now, according to Defendant's
 13 Exhibit 17, in this December 2, 2011 e-mail
 14 from Mr. Siniscalchi, you were asked by him to
 15 provide a written statement addressing four
 16 aspects of the November 25, 2011 incident.
 17 And those aspects being 1, why you refused
 18 your medical facility overtime assignment
 19 knowing prior to the assignment that you
 20 cannot drive on the field.
 21 2, why you were unable to drive on
 22 the field.
 23 3, why you were unprepared and did
 24 not have your stamp.
 25 And 4, why you refused to retrieve

Page 447

1 R. Figueroa
 2 your admission stamp as structured.
 3 Now, in response to Defendant's
 4 Exhibit 17, this e-mail from Mr. Siniscalchi
 5 to you, did you, in fact, provide a written
 6 explanation?
 7 A. This e-mail was forwarded by Mr.
 8 Siniscalchi over to me. I asked Mr.
 9 Siniscalchi, "who instructed you to send me
 10 this e-mail?"
 11 He told me, "It was Chance Young."
 12 This e-mail was directly directed
 13 towards me by Chance Young through my
 14 supervisor so that Chance Young's name
 15 wouldn't appear anywhere on the memo.
 16 And I sent Mr. Siniscalchi a return
 17 e-mail asking specifically "who is requesting
 18 this information?"
 19 And he responded back that it was
 20 Deputy Chief Chance Young.
 21 Q. All right, but just my question was
 22 did you provide a written explanation in
 23 response to the request from Mr. Siniscalchi
 24 regarding you to address these four aspects of
 25 the November 25, 2011 incident that he had

Page 448

1 R. Figueroa
 2 referenced?
 3 A. Yes.
 4 MR. LYNCH: Mark this, please?
 5 (Defendant's Exhibit 18, Written
 6 response, was so marked for identification.)
 7 Q. You've been handed what's been marked
 8 as Defendant's Exhibit 18. If you can just
 9 take a moment to review it, Mr. Figueroa, and
 10 then I'm just going to ask you a couple of
 11 questions about it.
 12 A. Okay.
 13 Q. Do you recognize this document,
 14 Defendant's Exhibit 18?
 15 A. Yes.
 16 Q. Can you tell me what it is?
 17 A. It is my written response.
 18 Q. When you say your "written response,"
 19 this is the written response to Mr.
 20 Siniscalchi's e-mail to you in December of
 21 2011 regarding addressing certain aspects of
 22 the overtime assignment issue on November 25,
 23 2011?
 24 A. Yes, the December 2nd, 2011 e-mail.
 25 Q. Okay. And I want to direct your

RICHARD FIGUEROA Volume II
 RICHARD FIGUEROA vs. JANET NAPOLITANO

May 20, 2013
 461-464

<p style="text-align: right;">Page 461</p> <p>1 R. Figueroa</p> <p>2 of command, lower ranking officers are</p> <p>3 supposed to obey proper orders of a superior</p> <p>4 ranking officer in general; correct?</p> <p>5 A. Proper orders, yes.</p> <p>6 Q. And is it your testimony, sir, that</p> <p>7 at no time on November 25, 2011, did you</p> <p>8 refuse to go get your admission stamp when Mr.</p> <p>9 Young had directed you to do so?</p> <p>10 MR. WOLIN: Objection.</p> <p>11 Asked and answered three times.</p> <p>12 A. No, I didn't refuse.</p> <p>13 MR. LYNCH: Mark this, please.</p> <p>14 (Defendant's Exhibit 19, Letter dated</p> <p>15 March 26, 2012 was so marked for</p> <p>16 identification.)</p> <p>17 Q. Mr. Figueroa, I'm showing you what's</p> <p>18 been marked as Defendant's Exhibit 19, also a</p> <p>19 copy has been handed to your counsel.</p> <p>20 Just take a moment to review it and</p> <p>21 let me know when you are finished, sir.</p> <p>22 A. Okay, I'm done.</p> <p>23 Q. Okay. Do you recognize this</p> <p>24 document, Defendant's Exhibit 19?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 463</p> <p>1 R. Figueroa</p> <p>2 suspension?</p> <p>3 A. Yes.</p> <p>4 Q. All right. So I want to talk a</p> <p>5 little bit about CBP's bid assignment process;</p> <p>6 okay?</p> <p>7 A. Yes.</p> <p>8 Q. Are you familiar with CBP's bid</p> <p>9 rotation placement process?</p> <p>10 A. Yes.</p> <p>11 Q. Can you tell me what exactly is your</p> <p>12 knowledge regarding this bid rotation</p> <p>13 placement process?</p> <p>14 And I'll refer to it by its acronym</p> <p>15 the BRP process, bid rotation placement</p> <p>16 process?</p> <p>17 A. Okay, we had engaged in an agreement,</p> <p>18 a national agreement that officers are to be</p> <p>19 assigned as per a bid process. If you wish an</p> <p>20 assignment, you have sufficient seniority and</p> <p>21 no one outbids you for a particular</p> <p>22 assignment, then you can be granted that</p> <p>23 assignment provided that you were not facing</p> <p>24 disciplinary action, because if you were, you</p> <p>25 were not allowed to bid.</p>
<p style="text-align: right;">Page 462</p> <p>1 R. Figueroa</p> <p>2 Q. Can you tell me what it is, Mr.</p> <p>3 Figueroa?</p> <p>4 A. It's a letter stipulating that I will</p> <p>5 be suspended for 10 days.</p> <p>6 Q. Okay. And Defendant's Exhibit 19</p> <p>7 specifically is a letter dated March 26, 2012,</p> <p>8 to you from CBP port director Brian Humphrey</p> <p>9 sustaining the February 22, 2012 notice of</p> <p>10 proposal to suspend. And as you indicate,</p> <p>11 according to Defendant's Exhibit 19, CBP had</p> <p>12 decided to mitigate this proposed 14-day</p> <p>13 suspension to a 10-day suspension.</p> <p>14 Now, according to Defendant's</p> <p>15 Exhibit 19, your suspension was to take affect</p> <p>16 on Monday, May 14, 2012.</p> <p>17 Did you, in fact, carry out your</p> <p>18 suspension on Monday, May 14, 2012?</p> <p>19 A. I don't remember what the exact start</p> <p>20 date was, but I did serve a 10-day suspension.</p> <p>21 Q. Okay. So following the issuance of</p> <p>22 the March 26, 2012 letter that's been marked</p> <p>23 Defendant's Exhibit 19 sustaining the charge</p> <p>24 set forth in the February 22, 2012 notice of</p> <p>25 proposal to suspend, you served a 10-day</p>	<p style="text-align: right;">Page 464</p> <p>1 R. Figueroa</p> <p>2 MR. LYNCH: Can you just read that</p> <p>3 back?</p> <p>4 (Record read.)</p> <p>5 Q. And which agreement are you referring</p> <p>6 to?</p> <p>7 A. It's an agreement between the</p> <p>8 National Treasurer Employees Union and Customs</p> <p>9 and Border Protection.</p> <p>10 Q. And can you tell me how exactly do</p> <p>11 the CBP officers put in bid for assignments?</p> <p>12 A. Well, you are given the listing of</p> <p>13 assignments and the parameters that those</p> <p>14 assignments entail, and if you find an</p> <p>15 assignment to your liking, you would bid for</p> <p>16 that assignment on a first priority, second</p> <p>17 priority, third priority and so forth listing.</p> <p>18 Your choices are looked at as well as</p> <p>19 everyone else's, and they combine the common</p> <p>20 requests.</p> <p>21 That is, if 10 officers want a</p> <p>22 particular assignment they will combine those</p> <p>23 requests and determine which officer has the</p> <p>24 most seniority. And the officer that does,</p> <p>25 gets the assignment.</p>

RICHARD FIGUEROA Volume II
 RICHARD FIGUEROA vs. JANET NAPOLITANO

May 20, 2013
 465-468

<p style="text-align: right;">Page 465</p> <p>1 R. Figueroa</p> <p>2 Q. Okay, and but how exactly would you</p> <p>3 submit your bids for these assignments?</p> <p>4 A. Well, you fill out some bid sheets</p> <p>5 and then you submit it to the assignment desk.</p> <p>6 And they will probably -- properly process it</p> <p>7 and file it.</p> <p>8 Q. All right. So when you submit your</p> <p>9 bid, you do it on a bid assignment sheet and</p> <p>10 you submit it to a bid assignment desk?</p> <p>11 A. You submit it to an assignment desk.</p> <p>12 They are a collection point.</p> <p>13 Q. Okay?</p> <p>14 A. They will take it from you, send you</p> <p>15 an e-mail as a receipt, that you submitted</p> <p>16 your bid sheet on a certain date with your bid</p> <p>17 choices. And you will then receive an e-mail</p> <p>18 at some point later stipulating what you've</p> <p>19 been granted.</p> <p>20 Q. Okay.</p> <p>21 A. Once again, provided you are not</p> <p>22 facing disciplinary action.</p> <p>23 Q. All right. Did there come a time</p> <p>24 between December of 2008 and January of 2009</p> <p>25 in which CBP had requested that you submit a</p>	<p style="text-align: right;">Page 467</p> <p>1 R. Figueroa</p> <p>2 marked Defendant's Exhibit 20. I just want</p> <p>3 you to take a brief moment to review it, Mr.</p> <p>4 Figueroa, and let me know when you are</p> <p>5 finished, sir?</p> <p>6 A. Okay.</p> <p>7 Q. Do you recognize Defendant's</p> <p>8 Exhibit 20?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Can you tell me what it is,</p> <p>11 sir?</p> <p>12 A. It is a bid rotation and placement</p> <p>13 preference sheet.</p> <p>14 Q. Do you recognize Defendant's</p> <p>15 Exhibit 20 as the bid rotation and placement</p> <p>16 sheet you submitted for fiscal year 2009?</p> <p>17 A. Yes, except for the notation on the</p> <p>18 front page that says, "Hispanic male."</p> <p>19 I didn't put that in.</p> <p>20 Q. All right. So utilizing Defendant's</p> <p>21 Exhibit 20, can you tell me when did you</p> <p>22 submit your bid assignment sheet?</p> <p>23 A. According to the date here, it was</p> <p>24 January 2, 2009.</p> <p>25 Q. Okay. So when you submitted this</p>
<p style="text-align: right;">Page 466</p> <p>1 R. Figueroa</p> <p>2 bid assignment sheet indicating your</p> <p>3 assignment preference for that upcoming year?</p> <p>4 A. Yes.</p> <p>5 Q. And in response to that request, did</p> <p>6 you submit a bid assignment sheet?</p> <p>7 A. Well, not immediately. I called my</p> <p>8 union to stipulate that, hey, I'm facing</p> <p>9 disciplinary action, I shouldn't be bidding.</p> <p>10 There are other officers who are</p> <p>11 facing disciplinary action, they are not</p> <p>12 submitting bids.</p> <p>13 Q. Okay, but my question was just, did</p> <p>14 you, in fact, submit a bid in response to a</p> <p>15 request from CBP sometime between</p> <p>16 December 2008 and January of 2009?</p> <p>17 A. I submitted a bid -- I did submit a</p> <p>18 bid on demand of CBP --</p> <p>19 Q. Okay.</p> <p>20 A. -- between that time period.</p> <p>21 MR. LYNCH: Mark this, please.</p> <p>22 (Defendant's Exhibit 20, Bid rotation</p> <p>23 and placement preference sheet was so</p> <p>24 marked for identification.)</p> <p>25 Q. I'm going to show you a document</p>	<p style="text-align: right;">Page 468</p> <p>1 R. Figueroa</p> <p>2 2009 bid assignment sheet that's been marked</p> <p>3 Defendant's Exhibit 20, can you explain to me</p> <p>4 how many assignments did you specifically bid</p> <p>5 for?</p> <p>6 A. It looks like I put in a bid for six</p> <p>7 assignments.</p> <p>8 Q. So can you explain to me for the six</p> <p>9 assignments you put in a bid for that are</p> <p>10 listed on the front page of Defendant's</p> <p>11 Exhibit 20, just explain to me each assignment</p> <p>12 you bid for and why, starting I guess with the</p> <p>13 first bid?</p> <p>14 A. Well, I bid for cargo processing,</p> <p>15 because I was in the cargo unit at the time</p> <p>16 and liked what I was doing. And your first</p> <p>17 bid is usually considered your strongest</p> <p>18 choice.</p> <p>19 Then I put in for firearms, because I</p> <p>20 have a skill in that area both for</p> <p>21 demonstrating and for teaching.</p> <p>22 And then the other assignments,</p> <p>23 scheduling, advanced targeting unit, chase,</p> <p>24 and advanced passenger information systems, I</p> <p>25 didn't know very much about those assignments,</p>

RICHARD FIGUEROA Volume II
 RICHARD FIGUEROA vs. JANET NAPOLITANO

May 20, 2013
 473-476

<p style="text-align: right;">Page 473</p> <p>1 R. Figueroa</p> <p>2 officer you can get it.</p> <p>3 I said, I can get it, the bid</p> <p>4 assignments were completed and lo and behold</p> <p>5 every officer got assigned, but when it came</p> <p>6 to my name, I was the most senior officer at</p> <p>7 JFK who didn't qualify for anything.</p> <p>8 Q. Okay.</p> <p>9 A. And then a couple of months later, I</p> <p>10 received a memo, lo and behold, that I can now</p> <p>11 qualify for APIS.</p> <p>12 Q. Okay. So to make sure then I</p> <p>13 understand, after you had submitted this 2009</p> <p>14 bid assignment sheet that's been marked</p> <p>15 Defendant's Exhibit 20, you didn't get any of</p> <p>16 the six bids that you had put in for?</p> <p>17 A. Correct.</p> <p>18 Q. You had been put into passenger</p> <p>19 processing?</p> <p>20 A. Correct.</p> <p>21 Q. And then a few months later in 2009</p> <p>22 you received notice that you were going to be</p> <p>23 placed into this advanced passenger</p> <p>24 information systems assignment?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 475</p> <p>1 R. Figueroa</p> <p>2 in the district court alleging discrimination</p> <p>3 against the secretary of Homeland Security?</p> <p>4 A. I alleged discrimination towards me</p> <p>5 by the people in the U.S. Customs Service.</p> <p>6 MR. LYNCH: Mark this, please.</p> <p>7 (Defendant's Exhibit 22, Complaint,</p> <p>8 was so marked for identification.)</p> <p>9 Q. I'm handing you what's been marked as</p> <p>10 Defendant's Exhibit 22. Just take a moment to</p> <p>11 review it, sir.</p> <p>12 Do you recognize Defendant's</p> <p>13 Exhibit 22?</p> <p>14 A. Yes.</p> <p>15 Q. Can you tell me what it is?</p> <p>16 A. It's a complaint of discrimination.</p> <p>17 Q. Do you recognize Defendant's</p> <p>18 Exhibit 22 as the complaint that you had filed</p> <p>19 in the district court with regard to your</p> <p>20 allegations of discrimination against the</p> <p>21 Secretary of the Department of Homeland</p> <p>22 Security?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And do you recognize your</p> <p>25 signature on the last page of Defendant's</p>
<p style="text-align: right;">Page 474</p> <p>1 R. Figueroa</p> <p>2 Q. Okay. All right. Now, when you</p> <p>3 found out that you had been placed into</p> <p>4 passenger processing, how did you feel at that</p> <p>5 point when you learned that?</p> <p>6 A. Well, I felt that there was something</p> <p>7 definitely amiss. I'm in the top third tier</p> <p>8 of seniority at the airport and everyone at</p> <p>9 the airport gets an assignment that they bid</p> <p>10 for except when it came to me.</p> <p>11 There were no other officers above me</p> <p>12 that didn't get the assignment that they put</p> <p>13 in for.</p> <p>14 Q. How do you know you were in the top</p> <p>15 third of seniority at the time you submitted</p> <p>16 the 2009 bid assignment sheet?</p> <p>17 A. Because there is a seniority list</p> <p>18 that comes out with this and you get to</p> <p>19 clearly see where you lie on the seniority</p> <p>20 list.</p> <p>21 Q. And from that you deduced that you</p> <p>22 were in the top third?</p> <p>23 A. Yes.</p> <p>24 Q. All right. So did there come a time,</p> <p>25 Mr. Figueroa, that you had filed a complaint</p>	<p style="text-align: right;">Page 476</p> <p>1 R. Figueroa</p> <p>2 Exhibit 22?</p> <p>3 A. Yes.</p> <p>4 Q. Did there come a time in which you</p> <p>5 filed an amended complaint in the district</p> <p>6 court concerning allegations of discrimination</p> <p>7 against the Secretary for Homeland Security?</p> <p>8 A. Yes.</p> <p>9 MR. LYNCH: Can we have that marked</p> <p>10 as the next exhibit?</p> <p>11 (Defendant's Exhibit 23, Amended</p> <p>12 complaint was so marked for identification.)</p> <p>13 Q. And do you recognize what's been</p> <p>14 marked as Defendant's Exhibit 23?</p> <p>15 A. Yes.</p> <p>16 Q. Can you tell me what Defendant's</p> <p>17 Exhibit 23 is, sir?</p> <p>18 A. It looks like the amended complaint</p> <p>19 that was filed.</p> <p>20 Q. Okay. When you say Defendant's</p> <p>21 Exhibit 23 looks like the amended complaint</p> <p>22 that was filed, are you referring to an</p> <p>23 amended complaint that was filed in the</p> <p>24 district court?</p> <p>25 A. Yes.</p>

RICHARD FIGUEROA Volume II
 RICHARD FIGUEROA vs. JANET NAPOLITANO

May 20, 2013
 477-480

Page 477	Page 479
<p>1 R. Figueroa</p> <p>2 Q. And do you recognize your signature</p> <p>3 on the second to last page of Defendant's</p> <p>4 Exhibit 23, sir?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And I want to focus on the</p> <p>7 allegations and the claims that you raised in</p> <p>8 this amended complaint that's been marked</p> <p>9 Defendant's Exhibit 23.</p> <p>10 I'm going to ask you some questions</p> <p>11 about them; okay?</p> <p>12 A. All right.</p> <p>13 Q. All right. So I'm going to start by</p> <p>14 focusing on the issue related to the bid</p> <p>15 rotation placement process, which you had</p> <p>16 highlighted on page 11 of Defendant's</p> <p>17 Exhibit 23.</p> <p>18 All right. Now, in your amended</p> <p>19 complaint you allege that the reason you did</p> <p>20 not receive your choice assignment after</p> <p>21 submitting this 2009 bid assignment sheet was</p> <p>22 because of discrimination on account of your</p> <p>23 national origin and gender.</p> <p>24 And in paragraph 84 of the amended</p> <p>25 complaint, which begins on page 12, you allege</p>	<p>1 R. Figueroa</p> <p>2 been frozen in my assignment the same as a</p> <p>3 Caucasian officer who was facing discipline,</p> <p>4 he didn't have to bid, and he was frozen in</p> <p>5 his assignment.</p> <p>6 Why is it that we are both facing the</p> <p>7 similar circumstances, yet I am forced to bid</p> <p>8 and he isn't?</p> <p>9 Q. Okay, but I guess what I'm just</p> <p>10 focused on is just why you believed it was to</p> <p>11 your detriment to submit the 2009 bid</p> <p>12 assignment sheet?</p> <p>13 Because had you been selected for</p> <p>14 cargo, which was your first choice assignment</p> <p>15 that you listed when you submitted the bid,</p> <p>16 you wouldn't have had an issue, right? That</p> <p>17 was your first choice?</p> <p>18 A. My issue was bidding to begin with.</p> <p>19 Because -- are you going to let me answer?</p> <p>20 Q. Go ahead, sir.</p> <p>21 A. I didn't wish to bid in the first</p> <p>22 place. I believe that this bid process was</p> <p>23 eventually going to somehow be detrimental to</p> <p>24 me in that when I put my choices down I wasn't</p> <p>25 going to get any of them.</p>
Page 478	Page 480
<p>1 R. Figueroa</p> <p>2 that you believe you were "forced to</p> <p>3 participate in the bid assignment."</p> <p>4 Can you explain to me how were you</p> <p>5 forced to participate in the bid assignment</p> <p>6 process?</p> <p>7 A. As I explained earlier, if an officer</p> <p>8 is facing discipline, he or she cannot bid.</p> <p>9 I was facing discipline at the time,</p> <p>10 my issue wasn't resolved. I should not have</p> <p>11 bid, and I was told, by e-mail, that I had to</p> <p>12 bid.</p> <p>13 Q. Okay. So you believe it was to your</p> <p>14 detriment to have been allowed to submit the</p> <p>15 2009 bid assignment sheet?</p> <p>16 A. Yes.</p> <p>17 Q. Why do you believe it was to your</p> <p>18 detriment? Because when you look at the 2009</p> <p>19 bid assignment sheet, you got to indicate</p> <p>20 which assignment you wanted.</p> <p>21 So why did you believe it was to your</p> <p>22 detriment to have to submit this 2009 bid</p> <p>23 assignment sheet?</p> <p>24 A. Because I was facing discipline, I</p> <p>25 should not have had to bid. I should have</p>	<p>1 R. Figueroa</p> <p>2 And lo and behold, when I put my</p> <p>3 choices down and every officer with more</p> <p>4 seniority than me was able to get what they</p> <p>5 wanted, when it came to my name, they couldn't</p> <p>6 fit me into any of my choice assignments, just</p> <p>7 as I was afraid of.</p> <p>8 The officers who were under me had a</p> <p>9 great deal of less seniority time than I did.</p> <p>10 There wasn't an officer underneath me who had</p> <p>11 close seniority to mine who also didn't get</p> <p>12 his assignment. The officers underneath me</p> <p>13 had severely less time than I did,</p> <p>14 substantially less time.</p> <p>15 When it came to this bid process, it</p> <p>16 wasn't fairly done when it came to me. And I</p> <p>17 knew that that was going to take place, and I</p> <p>18 stipulated that I wouldn't have to worry about</p> <p>19 this issue because another officer who is in</p> <p>20 the same circumstance as I did not have to</p> <p>21 bid, but I was forced to bid.</p> <p>22 And lo and behold, out of a thousand</p> <p>23 officers and all the other officers that got</p> <p>24 their assignment, once that list came to my</p> <p>25 name, they couldn't fit me anywhere.</p>

RICHARD FIGUEROA Volume II
 RICHARD FIGUEROA vs. JANET NAPOLITANO

May 20, 2013
 481-484

<p style="text-align: right;">Page 481</p> <p>1 R. Figueroa</p> <p>2 It's exactly the result I thought I</p> <p>3 would face, and it turned out that way,</p> <p>4 because when it came to me I wasn't going to</p> <p>5 get what I wanted.</p> <p>6 There was a campaign of hostility at</p> <p>7 the airport, and these results prove it.</p> <p>8 Q. Okay. Now, in paragraph 85 on page</p> <p>9 13 of your amended complaint, you allege that,</p> <p>10 "Only a handful of officers did not receive</p> <p>11 their choice of assignment."</p> <p>12 What's your basis for that</p> <p>13 allegation, there was only a handful of</p> <p>14 officers that did not receive their choice of</p> <p>15 assignments?</p> <p>16 A. As a member of the union, you are</p> <p>17 allowed to look at all the documents that</p> <p>18 pertain to anything regarding the union and</p> <p>19 its membership.</p> <p>20 I was allowed to look at all the bid</p> <p>21 requests, see the officers' seniority and see</p> <p>22 who was able to get what assignment.</p> <p>23 And according to this, I was number</p> <p>24 367 out of 1,033 officers. When it came to my</p> <p>25 name, I got nothing.</p>	<p style="text-align: right;">Page 483</p> <p>1 R. Figueroa</p> <p>2 Q. Okay. I'm focused on -- that's why I</p> <p>3 said just listen to the question, some may</p> <p>4 seem all the same, but what's your basis for</p> <p>5 believing it was because of your national</p> <p>6 origin that did you not receive your preferred</p> <p>7 bid assignment back in 2009?</p> <p>8 A. Because of the fact that I put in a</p> <p>9 complaint already regarding Ms. Sachdeva, that</p> <p>10 I am a Hispanic officer, not a Caucasian</p> <p>11 officer, who had the nerve to complain about a</p> <p>12 supervisor and as a result had a campaign, a</p> <p>13 retaliation campaign leveled against me with</p> <p>14 everything I did with regard to my job at this</p> <p>15 airport, including a process that's supposed</p> <p>16 to be legitimate that turned out not to be.</p> <p>17 Q. But why do you believe that anything</p> <p>18 that occurred with Ms. Sachdeva has anything</p> <p>19 to do with you not being selected to receive</p> <p>20 your preferred bid assignment on the basis of</p> <p>21 your national origin?</p> <p>22 A. I was facing discipline. A Caucasian</p> <p>23 officer was facing discipline, I wasn't</p> <p>24 supposed to bid. He didn't have to bid. They</p> <p>25 forced me to bid. They didn't force him to</p>
<p style="text-align: right;">Page 482</p> <p>1 R. Figueroa</p> <p>2 The other seven officers underneath</p> <p>3 me with substantially less seniority, they too</p> <p>4 got nothing, but they had substantially less</p> <p>5 seniority. There wasn't one officer who was</p> <p>6 denied an assignment that had close anywhere</p> <p>7 to my seniority.</p> <p>8 MR. LYNCH: Can you just read his</p> <p>9 answer back, please? Thank you.</p> <p>10 (Question read.)</p> <p>11 Q. Okay. Well, can you tell me who are</p> <p>12 the CBP officials that you believe</p> <p>13 discriminated against you because of your</p> <p>14 national origin and gender with respect to the</p> <p>15 bid rotation placement process for fiscal year</p> <p>16 2009?</p> <p>17 A. I have no idea who was involved in</p> <p>18 the bid rotation process of 2009.</p> <p>19 Q. So then tell me, what's your basis</p> <p>20 for -- listen to the question, what's your</p> <p>21 basis for believing that it was because of</p> <p>22 your national origin that you did not receive</p> <p>23 your preferred bid assignment in 2009?</p> <p>24 A. My complaint was national origin,</p> <p>25 retaliation and a hostile work environment.</p>	<p style="text-align: right;">Page 484</p> <p>1 R. Figueroa</p> <p>2 bid.</p> <p>3 Q. Okay. Who is the Caucasian officer</p> <p>4 that you are referring to?</p> <p>5 A. Officer [Redacted] R. [Redacted]</p> <p>6 Q. And you believe that the same way</p> <p>7 that Officer [Redacted] R. [Redacted] was not allowed</p> <p>8 to bid that you should not have been permitted</p> <p>9 to submit a bid back in 2009?</p> <p>10 A. Well, the rule is clear, if an</p> <p>11 officer is facing disciplinary matters, he is</p> <p>12 not permitted to bid. I didn't invent that.</p> <p>13 The rule is clear. It's listed, it's</p> <p>14 documented. Officer R. [Redacted] was facing</p> <p>15 disciplinary matters the same time I was.</p> <p>16 Officer R. [Redacted] didn't have to bid.</p> <p>17 Q. How do you know that Officer R. [Redacted]</p> <p>18 was facing the same disciplinary issues around</p> <p>19 the same time that you were?</p> <p>20 MR. WOLIN: Objection.</p> <p>21 You can answer it.</p> <p>22 A. He wasn't facing the same</p> <p>23 disciplinary issues that I was, he was facing</p> <p>24 disciplinary issues. That's the criteria.</p> <p>25 If you are facing disciplinary</p>

RICHARD FIGUEROA Volume II
 RICHARD FIGUEROA vs. JANET NAPOLITANO

May 20, 2013
 485-488

Page 485

1 R. Figueroa
 2 issues, you cannot bid. They are forcing me
 3 to bid against the rule.
 4 Officer R[Redacted] kept his position in
 5 cargo. I was in cargo at this time.
 6 Officer R[Redacted] did not have to bid,
 7 was facing disciplinary matters and retained
 8 his position in cargo.
 9 Q. And how do you know that Officer
 10 R[Redacted] did not have to bid?
 11 A. Because I saw the bid sheets, and I
 12 asked Officer R[Redacted] and I was told by the
 13 union no, he doesn't have to bid, he is facing
 14 issues.
 15 I was facing issues. They made it a
 16 point to reach out in an e-mail to tell me I
 17 had to bid. And then when I do bid, I don't
 18 get any of my choices. Officer R[Redacted] got to
 19 stay in cargo.
 20 There was an officer [Redacted] Bedacti,
 21 an African-American officer, he bid, he was
 22 facing discipline, he shouldn't have had to
 23 bid. He won his bid assignment, they refused
 24 to give it to him. There is clearly two sets
 25 of rules, one for the Caucasian officers at

Page 486

1 R. Figueroa
 2 JFK and definitely one for officers of color,
 3 especially those who speak up and file
 4 harassment -- sexual harassment complaints
 5 against their supervisors.
 6 Q. Okay. Well, you identify as an
 7 officer of color?
 8 A. Pardon me?
 9 Q. You identify as an officer of color?
 10 A. I identify as a Hispanic officer.
 11 Q. Okay. And that's national origin?
 12 A. Yes.
 13 Q. Okay.
 14 A. And once again, I point out in
 15 evidence sheet number 20, there is a notation
 16 here stipulating I'm a Hispanic male.
 17 I didn't write that. Somebody did.
 18 Q. Okay.
 19 A. That's not my handwriting. Why do
 20 they feel a need to stipulate what my
 21 ethnicity is?
 22 Q. Okay.
 23 A. Furthermore, Officer [Redacted]
 24 F[Redacted], he was the least senator officer
 25 who got the holidays off, he lost his bid to

Page 487

1 R. Figueroa
 2 the mail branch that year, he was retained in
 3 the mail branch.
 4 He was supposed to go to passenger
 5 processing. He was retained by Ms. Sachdeva
 6 at the mail branch.
 7 Q. All right. Well, why don't you tell
 8 me, did you ever hear anyone in CDP state that
 9 the reason you didn't receive your preferred
 10 bid assignment back in 2009 was due to you
 11 being Hispanic?
 12 A. No, sir. No one was going to walk
 13 around with a sign saying you were
 14 discriminated against because of your
 15 ethnicity.
 16 No one is going to tell me or send me
 17 an e-mail saying ha, ha, this happened to you
 18 because of what you did to Sachdeva.
 19 No, sir. I learned of what's
 20 happening to me by the circumstances and the
 21 results of what exactly did happen to me.
 22 Q. Well, did you ever come across any
 23 document in which a CBP official indicated
 24 that the reason you didn't receive your
 25 preferred bid assignment was on account of you

Page 488

1 R. Figueroa
 2 being Hispanic?
 3 A. No, I've never seen any admission to
 4 anything or like that until today when you
 5 handed me this sheet with my ethnicity clearly
 6 stated on it.
 7 Q. Well, this was produced, sir, in
 8 connection with this case where you had raised
 9 issues and so that's why there is a notation,
 10 sir.
 11 A. Well, who put that notation there?
 12 If you don't know, then how can you certify
 13 that that is the reason?
 14 MR. LYNCH: Okay. Let's just take a
 15 minute, okay.
 16 (Recess taken.)
 17 Q. Why don't you tell me, Mr. Figueroa,
 18 what's your basis for believing that it was
 19 because of your gender that you did not
 20 receive your choice assignment in 2009?
 21 A. It all stems back from the Sachdeva
 22 incident.
 23 Q. Okay, but what's your basis for
 24 believing that it all stems from your
 25 interactions with Ms. Sachdeva that you base

RICHARD FIGUEROA Volume II
 RICHARD FIGUEROA vs. JANET NAPOLITANO

May 20, 2013
 489-492

<p style="text-align: right;">Page 489</p> <p>1 R. Figueroa</p> <p>2 not receiving this choice assignment in 2009</p> <p>3 on the basis of your gender?</p> <p>4 A. No, that's a leap.</p> <p>5 MR. WOLIN: I'm sorry, I didn't hear</p> <p>6 that last portion?</p> <p>7 THE WITNESS: I said that's a leap</p> <p>8 that's being made. And I'm not saying that</p> <p>9 you are doing that intentionally.</p> <p>10 With my problems with supervisor</p> <p>11 Sachdeva, it was because I was a male. If I</p> <p>12 was a female, I don't believe she would have</p> <p>13 been interested.</p> <p>14 Q. Right. So then --</p> <p>15 A. Okay. And this all stems from my</p> <p>16 incident with her.</p> <p>17 I did put in a complaint against her,</p> <p>18 all right, and because I did put in a</p> <p>19 complaint against her, now begins a campaign</p> <p>20 of retaliation against me based on my</p> <p>21 ethnicity and retaliation in that I submitted</p> <p>22 a sexual harassment complaint in violation of</p> <p>23 my EEO rights.</p> <p>24 Q. But my questions are not focused on</p> <p>25 retaliation right now, okay. So that's why</p>	<p style="text-align: right;">Page 491</p> <p>1 R. Figueroa</p> <p>2 issues with Ms. Sachdeva that it was on</p> <p>3 account of your gender you didn't receive the</p> <p>4 choice assignment? That's just my question.</p> <p>5 MR. WOLIN: Objection.</p> <p>6 Answer it.</p> <p>7 A. My response is the same.</p> <p>8 Q. Well, was Ms. Sachdeva in charge of</p> <p>9 the bid assignment process in 2009?</p> <p>10 A. No, Ms. Sachdeva is a member of</p> <p>11 management.</p> <p>12 Q. But as far as you know, she wasn't</p> <p>13 involved with making the selections for bid</p> <p>14 assignments in 2009; correct?</p> <p>15 A. I don't know what input she had in it</p> <p>16 at this stage of the game. As I had just</p> <p>17 explained, the bid rotation process was</p> <p>18 less -- the integrity was definitely less than</p> <p>19 what it should have been. And I don't know</p> <p>20 who had a hand in that.</p> <p>21 These problems all began with Ms.</p> <p>22 Sachdeva and got carried on continually with</p> <p>23 the rest of management at JFK.</p> <p>24 Q. Okay, but just focusing on the bid</p> <p>25 issue then, what's your basis for believing</p>
<p style="text-align: right;">Page 490</p> <p>1 R. Figueroa</p> <p>2 it's really important just to listen to each</p> <p>3 question. And my question was just what's</p> <p>4 your basis for believing it was because of</p> <p>5 your gender that you didn't receive your</p> <p>6 choice assignment back in 2009?</p> <p>7 You said it all stems from your</p> <p>8 interaction with Ms. Sachdeva and the</p> <p>9 incidents with her. What's your basis for</p> <p>10 believing that any of the incidents you had</p> <p>11 with Ms. Sachdeva were the reason that you</p> <p>12 didn't receive your choice assignment in 2009</p> <p>13 on the basis of your gender?</p> <p>14 A. I believe it's all one and the same.</p> <p>15 It began because of my gender with Sachdeva</p> <p>16 and it turns into a campaign of retaliation.</p> <p>17 Q. Okay. And I'm just not asking about</p> <p>18 retaliation, I'm just focused on why you</p> <p>19 believe that it was because of your gender,</p> <p>20 okay. That because you were a man that you</p> <p>21 did not receive your choice assignment in</p> <p>22 2009.</p> <p>23 You are saying it all stems from the</p> <p>24 interactions with Ms. Sachdeva, but what's</p> <p>25 your basis for believing that because of these</p>	<p style="text-align: right;">Page 492</p> <p>1 R. Figueroa</p> <p>2 that this all stems from Ms. Sachdeva with</p> <p>3 regard to your choice -- your bid assignment</p> <p>4 request in 2009?</p> <p>5 A. If I hadn't had been a male, Ms.</p> <p>6 Sachdeva wouldn't have been interested in me</p> <p>7 and when I rebuffed her, I would not have had</p> <p>8 these problems.</p> <p>9 Q. And my follow-up question then though</p> <p>10 is what's the basis for believing the linkage</p> <p>11 between your interactions with Ms. Sachdeva</p> <p>12 and those incidents and you making this bid in</p> <p>13 2009 and not being selected, what's your</p> <p>14 linkage? How do you connect that? That's all</p> <p>15 I'm asking, sir.</p> <p>16 A. It's a lot more than my not being</p> <p>17 selected. My being forced to bid was</p> <p>18 included. You are skipping over that as well,</p> <p>19 okay.</p> <p>20 My right to not have bid was already</p> <p>21 circumvented, as I stipulated by the</p> <p>22 comparison with a Caucasian officer. Officer</p> <p>23 FRedacted a junior officer who lost his bid</p> <p>24 couldn't stay in the mail branch, was able to</p> <p>25 stay because of Ms. Sachdeva.</p>

RICHARD FIGUEROA Volume II
 RICHARD FIGUEROA vs. JANET NAPOLITANO

May 20, 2013
 509-512

<p style="text-align: right;">Page 509</p> <p>1 R. Figueroa</p> <p>2 Rios, Charles Mattina, Pedro Cano, Chance</p> <p>3 Young, Deborah Tricarico and Terry Abramsky.</p> <p>4 That's her first name, Terry.</p> <p>5 Q. What was the other one, Deborah?</p> <p>6 A. Tricarico, T-R-I-C-A-R-I-C-O. As</p> <p>7 well as Ms. Polimeni, Mr. Biondi, Mr.</p> <p>8 Humphries and Mr. Mironzona.</p> <p>9 MR. LYNCH: Can you read his answer</p> <p>10 back?</p> <p>11 (Answer read.)</p> <p>12 Q. Okay. Well, I understand with regard</p> <p>13 to Ms. Sachdeva why you may refer to her as</p> <p>14 one of the CBP officials you believe are</p> <p>15 responsible for retaliating against you for</p> <p>16 filing the April 18, 2008 e-mail response</p> <p>17 result that you believe resulted in this</p> <p>18 June 2009 suspension.</p> <p>19 I'm not clear with regard to Tim</p> <p>20 Jernigan, why is he one of the CBP officials</p> <p>21 that you believe was responsible for</p> <p>22 retaliating against you in connection with</p> <p>23 this June 2009 suspension?</p> <p>24 A. Because he was the supervisor that</p> <p>25 held a meeting with me and another supervisor</p>	<p style="text-align: right;">Page 511</p> <p>1 R. Figueroa</p> <p>2 some kind of a third class citizen, trying to</p> <p>3 humiliate me in public.</p> <p>4 I have no doubt that she had a great</p> <p>5 deal of input into the end result, which was</p> <p>6 my suspension.</p> <p>7 Q. And when you say you have no doubt</p> <p>8 that she was responsible in connection with</p> <p>9 this June 2009 suspension, what do you base</p> <p>10 that statement on when you say you have no</p> <p>11 doubt?</p> <p>12 A. Well, an incident like this requires</p> <p>13 many memos to go back and forth, and I'm sure</p> <p>14 they wrote memos regarding this incident</p> <p>15 putting their personal feelings into it.</p> <p>16 Q. Okay. Well, how are you sure that</p> <p>17 chief Laura Rios had put in a memo indicating</p> <p>18 her personal feelings regarding the -- with</p> <p>19 regard to you being suspended in June of 2009?</p> <p>20 A. I don't know. Well, if she didn't</p> <p>21 and nobody else did, then they just suspended</p> <p>22 me based on Sachdeva's complaint. It doesn't</p> <p>23 make sense.</p> <p>24 Q. Okay. Well, you are saying that you</p> <p>25 were sure that she had put her own personal</p>
<p style="text-align: right;">Page 510</p> <p>1 R. Figueroa</p> <p>2 and stipulated that I was getting thrown out</p> <p>3 of the mail branch because of my EEO reports.</p> <p>4 I had to leave the mail branch, I was getting</p> <p>5 thrown out physically.</p> <p>6 Q. When you say your EEO reports, you</p> <p>7 are referring to this April 18, 2008 e-mail</p> <p>8 response?</p> <p>9 A. Yes, he specifically stated and was</p> <p>10 commenting, ridiculing me on my EEO reports.</p> <p>11 Q. And with regard to Laura Rios, why do</p> <p>12 you indicate that she is also one of the CBP</p> <p>13 officials you believe are responsible for</p> <p>14 retaliating against you in connection with you</p> <p>15 receiving this June 2009 suspension?</p> <p>16 A. Because they all have to endorse the</p> <p>17 paperwork and make it go further up and put</p> <p>18 their own comments on the paperwork or give</p> <p>19 their input as part of the impartial</p> <p>20 investigative process.</p> <p>21 Q. But why specifically do you believe</p> <p>22 Laura Rios was one of the responsible CBP</p> <p>23 officials?</p> <p>24 A. Because of her actions towards me.</p> <p>25 The snaring, the speaking to me like I was</p>	<p style="text-align: right;">Page 512</p> <p>1 R. Figueroa</p> <p>2 feelings, Laura Rios?</p> <p>3 A. Yes, I am sure she did.</p> <p>4 Q. What's your basis for making that</p> <p>5 statement, though?</p> <p>6 A. Because whenever things like this</p> <p>7 happens, at every level someone has to issue a</p> <p>8 memo regarding their findings, and further it</p> <p>9 up the chain of command.</p> <p>10 Q. What makes you believe it was chief</p> <p>11 Laura Rios's personal feelings toward you that</p> <p>12 played a role in connection with you receiving</p> <p>13 this suspension in June of 2009?</p> <p>14 A. Because the way she was treating me</p> <p>15 physically, I had no doubt that she</p> <p>16 transferred those emotions onto paper when she</p> <p>17 had to make out her memo.</p> <p>18 Q. Tell me, what's your basis for</p> <p>19 believing that it was Charles Mattina that was</p> <p>20 one of the responsible CBP officials you</p> <p>21 believe had retaliated against you for filing</p> <p>22 this April 18, 2008 e-mail response?</p> <p>23 A. As I mentioned prior, I needed to get</p> <p>24 some keys out of the detention room in order</p> <p>25 to do my job, Charles Mattina was standing in</p>

RICHARD FIGUEROA Volume II
RICHARD FIGUEROA vs. JANET NAPOLITANO

May 20, 2013
513-516

<p style="text-align: right;">Page 513</p> <p>1 R. Figueroa</p> <p>2 front of the detention room, had access to the</p> <p>3 detention room and stipulated that he wasn't</p> <p>4 going to let me in and I would have to wait</p> <p>5 for somebody else to come in and allow me</p> <p>6 access in there so that I can obtain what I</p> <p>7 needed to get my job done.</p> <p>8 Q. But how did Charles Mattina have any</p> <p>9 role with this June 2009 suspension? I</p> <p>10 understand your issue with regard to him not</p> <p>11 letting you into the detention room, but how</p> <p>12 did that connect with him having any</p> <p>13 involvement with this June 2009 suspension?</p> <p>14 A. Charles Mattina was one of the</p> <p>15 witnesses when I got served with my suspension</p> <p>16 proposals.</p> <p>17 Q. Okay, but I'm not following you.</p> <p>18 How is it that you believe that he</p> <p>19 had any responsibility with regard to you</p> <p>20 being issued the suspension in June of 2009?</p> <p>21 A. Because all the supervisors, they get</p> <p>22 together, they discuss matters and they</p> <p>23 further up their feelings. Whenever they are</p> <p>24 asked for a memo regarding anything that might</p> <p>25 have occurred, any incidents, they have to</p>	<p style="text-align: right;">Page 515</p> <p>1 R. Figueroa</p> <p>2 A. No, no, no, no, those are from</p> <p>3 Officer Cano on, those officers had nothing to</p> <p>4 do with the 2009 suspension date.</p> <p>5 Q. So why don't we start this from the</p> <p>6 top, okay, with June of 2009.</p> <p>7 Who are the CBP officials that you</p> <p>8 believe were responsible for retaliating</p> <p>9 against you for filing the April 18, 2008</p> <p>10 e-mail response? I just want to focus on</p> <p>11 them.</p> <p>12 A. Okay.</p> <p>13 MR. WOLIN: When he was suspended --</p> <p>14 MR. LYNCH: This is in connection</p> <p>15 with the June 2009 suspension only.</p> <p>16 A. Fine.</p> <p>17 Q. Who are those CBP officials?</p> <p>18 A. Supervisor Sachdeva, Charles</p> <p>19 Jernigan, Charles Mattina -- Tim Jernigan.</p> <p>20 I'm sorry, Tim Jernigan, Charles Mattina,</p> <p>21 Laura Rios, Camille Polimeni.</p> <p>22 MR. LYNCH: Let's take a break.</p> <p>23 (Recess taken.)</p> <p>24 Q. And do you know if Tim Jernigan was</p> <p>25 aware that you had filed this April 18, 2008</p>
<p style="text-align: right;">Page 514</p> <p>1 R. Figueroa</p> <p>2 write memos, be it a cc mail or an incident</p> <p>3 report, they have to write memos.</p> <p>4 Q. Why don't you tell me with regard to</p> <p>5 Pedro Cano, how is it you believe he is one of</p> <p>6 the CBP officials that was responsible for</p> <p>7 retaliating against you for filing this</p> <p>8 April 18, 2008 e-mail response?</p> <p>9 A. Because it had already been known</p> <p>10 that I made out a complaint report, an EEO</p> <p>11 report, I've been shifted around from one unit</p> <p>12 to another.</p> <p>13 Now I'm in a situation where I have</p> <p>14 to work in a specific area that no one ever</p> <p>15 told me about. And when he did mention it to</p> <p>16 me, the area was already occupied by somebody.</p> <p>17 MR. WOLIN: He is asking you</p> <p>18 specifically with reference to the first</p> <p>19 suspension.</p> <p>20 MR. LYNCH: That's why I said it's</p> <p>21 really important to listen here, because I'm</p> <p>22 focused on just this June 2009 suspension,</p> <p>23 sir.</p> <p>24 A. Oh, you mean on that date?</p> <p>25 Q. Yes, that's what I'm focused on.</p>	<p style="text-align: right;">Page 516</p> <p>1 R. Figueroa</p> <p>2 e-mail response that you believe you were</p> <p>3 retaliated against for?</p> <p>4 A. Yes.</p> <p>5 Q. What's your basis for that statement?</p> <p>6 A. He told me too.</p> <p>7 Q. When did Mr. Jernigan tell you that</p> <p>8 he was aware that you had filed this April 18,</p> <p>9 2008 e-mail response?</p> <p>10 A. The day he had me in his office to</p> <p>11 tell me that I was being thrown out of the</p> <p>12 mail branch and going over to cargo.</p> <p>13 Q. Okay. And when was that?</p> <p>14 A. I believe that date was a Friday, so</p> <p>15 it would be the following Monday.</p> <p>16 Q. So that was in -- still in April of</p> <p>17 2008?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. With regard to Charles</p> <p>20 Mattina, do you know if he was aware that you</p> <p>21 had filed this April 18, 2008 e-mail response?</p> <p>22 A. Yes, he was.</p> <p>23 Q. How do you know that?</p> <p>24 A. He once again told me, and he also</p> <p>25 told my union representative that was there</p>

Exhibit C

COPY

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X
RICHARD FIGUEROA,

Plaintiff,

- against -

JANET NAPOLITANO, Secretary, U.S.
Department of Homeland Security,
Defendant.
----- X

271 Cadman Plaza East
Brooklyn, New York
October 30, 2013
10:05 A.M.

DEPOSITION of KOMPTEL VERDI, a witness
herein, taken by the Plaintiff herein,
pursuant to the Federal Rules of Civil
Procedure, held at the above-mentioned
time and place, before Raymond Stalker,
RPR, a Notary Public of the State of New
York.

<p style="text-align: right;">Page 2</p> <p>1 2 APPEARANCES: 3 WOLIN & WOLIN, P.C. Attorneys for Plaintiff 4 420 Jericho Turnpike Jericho, New York 11753 5 6 BY: ALAN E. WOLIN, ESQ. 7 8 LORETTA E. LYNCH United States Attorney 8 Eastern District of New York, 271 Cadman Plaza East 9 Brooklyn, New York 11201 10 BY: TIMOTHY D. LYNCH, ESQ. and 11 RAFIK ALIDINA, ESQ. 12 13 ALSO PRESENT: 14 RICHARD FIGUEROA 15 JILL MERENDA Paralegal 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p>1 KOMPEL VERDI 2 Jamaica, New York 11430. 3 Q. Have you ever been known by any 4 other name, other than Verdi? 5 A. Yes. 6 Q. What other name or names have 7 you been known by? 8 A. My last name has been Sachdeva, 9 which is my maiden name, S-A-C-H-D-E-V-A. 10 And I was also married previously with 11 Gifford. Gifford was my previous married 12 name. 13 Q. During what period of time have 14 you been known as Kompel Sachdeva? 15 A. From birth until age 16 twenty-three and then again from age 17 twenty-six until 2011. 18 Q. What happened in 2011 to result 19 in a change of your last name? 20 A. I was married. 21 Q. What is the name of the person 22 to whom you were married? 23 A. Michael Verdi. 24 Q. And is Mr. Verdi employed by 25 CBP?</p>
<p style="text-align: right;">Page 3</p> <p>1 KOMPEL VERDI 2 KOMPEL VERDI, a witness herein, having 3 first been duly sworn by a Notary Public of the 4 State of New York, was examined and testified as 5 follows: 6 MR. WOLIN: Good morning, Ms. 7 Verdi. My name is Alan Wolin. 8 I am an attorney and I 9 represent Mr. Figueroa in this 10 lawsuit. I will be asking you 11 a series of questions 12 concerning some of the facts 13 and circumstances of the case. 14 If at any time I ask you a 15 question that you don't 16 understand, ask me to rephrase 17 it and I will attempt to do the 18 best I can. 19 EXAMINATION BY 20 MR. WOLIN: 21 Q. Please state your full name for 22 the record. 23 A. Kompel Verdi. 24 Q. What is your present assignment? 25 A. JFK Airport, Terminal 4,</p>	<p style="text-align: right;">Page 5</p> <p>1 KOMPEL VERDI 2 A. Yes. 3 Q. What is his job title at CBP? 4 A. Supervisory CBP officer. 5 Q. Where is he assigned? 6 A. Newark Airport. 7 Q. Has Mr. Verdi every been 8 assigned to J.F.K? 9 A. Yes, he has. 10 Q. When was he assigned to JFK? 11 A. 1996 to 2001. 12 Q. And has he been assigned to 13 Newark continuously since 2001? 14 A. Yes. 15 Q. Now, you indicated that you were 16 previously married to someone named Gifford, 17 you said? 18 A. Yes. 19 Q. Was Mr. Gifford an employee of 20 customs? 21 A. No. 22 Q. Ms. Verdi, have you taken any 23 medication within the past twenty-four 24 hours? 25 A. No.</p>

2 (Pages 2 - 5)

<p style="text-align: right;">Page 6</p> <p>1 KOMPEL VERDI</p> <p>2 Q. Have consumed any alcoholic</p> <p>3 beverages within the past twenty-four hours?</p> <p>4 A. No.</p> <p>5 Q. Is there any reason that you</p> <p>6 know of, whatsoever, why you cannot answer</p> <p>7 my questions today truthfully, accurately</p> <p>8 and to the best of your ability?</p> <p>9 A. No.</p> <p>10 Q. What, if anything, did you do to</p> <p>11 prepare for the deposition today?</p> <p>12 A. I spoke with my attorney.</p> <p>13 Q. Other than speaking to your</p> <p>14 attorney, did you speak to anyone else to</p> <p>15 prepare for this deposition?</p> <p>16 A. No.</p> <p>17 Q. Did you review any documents to</p> <p>18 prepare for this disposition?</p> <p>19 MR. LYNCH: Ms. Verdi did</p> <p>20 review documents with me in</p> <p>21 preparation for the deposition.</p> <p>22 As long as you agree it is not</p> <p>23 a waiver of attorney work</p> <p>24 product, I will allow her to</p> <p>25 answer.</p>	<p style="text-align: right;">Page 8</p> <p>1 KOMPEL VERDI</p> <p>2 individuals, including Laura Rios, dated</p> <p>3 September 29th, 2007; do you have that</p> <p>4 document before you?</p> <p>5 A. Yes.</p> <p>6 Q. Is that the e-mail that you have</p> <p>7 referred to as having reviewed?</p> <p>8 A. Yes.</p> <p>9 Q. Now, you also indicate that you</p> <p>10 reviewed a memo; is that correct?</p> <p>11 A. Yes.</p> <p>12 Q. Was that memo a memo to Chief</p> <p>13 Rios?</p> <p>14 A. Yes.</p> <p>15 MR. WOLIN: Why don't we mark</p> <p>16 this as Exhibit 2?</p> <p>17 (Whereupon, at this time, the</p> <p>18 above-mentioned memo was marked</p> <p>19 by the reporter as Plaintiff's</p> <p>20 Exhibit 2, for identification,</p> <p>21 as of this date.)</p> <p>22 Q. Ms. Verdi, I show you what we</p> <p>23 have just marked as Exhibit 2, which appears</p> <p>24 to be a memo from you to Chief Rios, dated</p> <p>25 December 31st, 2007; is that the memo that</p>
<p style="text-align: right;">Page 7</p> <p>1 KOMPEL VERDI</p> <p>2 MR. WOLIN: Of course.</p> <p>3 Q. What documents did you review to</p> <p>4 prepare for the deposition?</p> <p>5 A. Documents I had written.</p> <p>6 Q. Can you identify what those</p> <p>7 documents are?</p> <p>8 A. Sure. An E-mail and a memo.</p> <p>9 Q. What was the purpose of the</p> <p>10 E-mail?</p> <p>11 A. The purpose of the E-mail was to</p> <p>12 notify my managers of an incident.</p> <p>13 Q. And was that Laura Rios?</p> <p>14 A. Yes.</p> <p>15 MR. WOLIN: Why don't we</p> <p>16 marked this?</p> <p>17 (Whereupon, at this time, the</p> <p>18 above-mentioned E-mail was</p> <p>19 marked by the reporter as</p> <p>20 Plaintiff's Exhibit 1, for</p> <p>21 identification, as of this</p> <p>22 date.)</p> <p>23 Q. Ms. Verdi, I show you what we</p> <p>24 have just marked as Exhibit 1, which seems</p> <p>25 to be an E-mail from you to various</p>	<p style="text-align: right;">Page 9</p> <p>1 KOMPEL VERDI</p> <p>2 you have referred to as having reviewed?</p> <p>3 A. Yes.</p> <p>4 Q. When did you review these two</p> <p>5 documents; was it this morning or sometime</p> <p>6 other than this morning?</p> <p>7 A. Yesterday.</p> <p>8 Q. And other than these two</p> <p>9 documents, did you review any other</p> <p>10 documents to prepare for this deposition</p> <p>11 today?</p> <p>12 A. No.</p> <p>13 Q. Are you aware of the fact that</p> <p>14 Mr. Figueroa has given a deposition in this</p> <p>15 action?</p> <p>16 A. Yes.</p> <p>17 Q. And did you review any portion</p> <p>18 of Mr. Figueroa's deposition transcript?</p> <p>19 A. No.</p> <p>20 Q. Besides counsel, did you speak</p> <p>21 to anyone to prepare for this deposition</p> <p>22 today?</p> <p>23 A. No.</p> <p>24 Q. Have you ever before given a</p> <p>25 deposition like you are doing today?</p>

3 (Pages 6 - 9)

<p style="text-align: right;">Page 10</p> <p>1 KOMPEL VERDI</p> <p>2 A. No.</p> <p>3 Q. Have you ever testified under</p> <p>4 oath before today?</p> <p>5 A. Yes.</p> <p>6 Q. How many times?</p> <p>7 A. Twice.</p> <p>8 Q. Can you recount the</p> <p>9 circumstances?</p> <p>10 A. Yes. Narcotic seizures.</p> <p>11 Q. Both times?</p> <p>12 A. Yes.</p> <p>13 Q. And in what type of setting did</p> <p>14 you testify under oath?</p> <p>15 A. Courtroom.</p> <p>16 Q. Both times courtroom?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And on each occasion you</p> <p>19 testified in a courtroom?</p> <p>20 A. Yes.</p> <p>21 Q. Do you remember what court or</p> <p>22 courts you testified in?</p> <p>23 A. I do not.</p> <p>24 Q. Was it the United States</p> <p>25 District Court?</p>	<p style="text-align: right;">Page 12</p> <p>1 KOMPEL VERDI</p> <p>2 Q. Has anyone, besides what may be</p> <p>3 the circumstances in this case, has anyone</p> <p>4 claimed that you discriminated against him</p> <p>5 or her in the work place?</p> <p>6 A. No.</p> <p>7 Q. Has anyone, besides what may be</p> <p>8 the circumstances in this case, ever claimed</p> <p>9 that you sexually harassed him?</p> <p>10 A. No.</p> <p>11 Q. Have ever claimed that you were</p> <p>12 the victim of discrimination?</p> <p>13 A. No.</p> <p>14 Q. Have you ever claimed that you</p> <p>15 were the victim of sexual harassment?</p> <p>16 A. No, sir.</p> <p>17 Q. By whom are you currently</p> <p>18 employed.</p> <p>19 A. Customs & Boarder Protection.</p> <p>20 Q. How long have been employed by</p> <p>21 CBP?</p> <p>22 A. Twenty-one years.</p> <p>23 Q. So that obviously would include</p> <p>24 the time prior to the merger; is that</p> <p>25 correct?</p>
<p style="text-align: right;">Page 11</p> <p>1 KOMPEL VERDI</p> <p>2 A. Yes.</p> <p>3 Q. And do you remember what borough</p> <p>4 it was in?</p> <p>5 A. It was here.</p> <p>6 Q. Her in Brooklyn?</p> <p>7 A. Brooklyn.</p> <p>8 Q. Across the street?</p> <p>9 A. Yes.</p> <p>10 Q. How long ago did you testify in</p> <p>11 each case?</p> <p>12 A. I can't recall.</p> <p>13 Q. Was it within the past five</p> <p>14 years?</p> <p>15 A. No.</p> <p>16 Q. Past ten years?</p> <p>17 A. Yes.</p> <p>18 Q. Have you ever sued anyone</p> <p>19 before?</p> <p>20 A. No.</p> <p>21 Q. Have you ever been sued?</p> <p>22 A. No.</p> <p>23 Q. Have you ever been convicted of</p> <p>24 a crime?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 13</p> <p>1 KOMPEL VERDI</p> <p>2 A. Correct.</p> <p>3 Q. What is your current job title?</p> <p>4 A. Deputy chief officer.</p> <p>5 Q. How long have you been a deputy</p> <p>6 chief?</p> <p>7 A. Since January?</p> <p>8 Q. Of 2013?</p> <p>9 A. Correct.</p> <p>10 Q. And what is your current</p> <p>11 assignment?</p> <p>12 A. I'm a watch commander as of</p> <p>13 yesterday.</p> <p>14 Q. As of yesterday?</p> <p>15 A. Yes.</p> <p>16 Q. What does a watch commander do?</p> <p>17 A. I take all of the</p> <p>18 responsibilities of the entire airport and</p> <p>19 it filters through the watch commander and</p> <p>20 goes up the chain of command, so that</p> <p>21 there's one central location for all</p> <p>22 incidents to come through.</p> <p>23 Q. What did you do prior to</p> <p>24 becoming a watch commander?</p> <p>25 A. I've been a deputy chief since</p>

4 (Pages 10 - 13)

Page 14

1 KOMPEL VERDI

2 January.

3 Q. Were you a deputy chief in a

4 particular branch?

5 A. Yes. Terminal 4.

6 Q. Were you a deputy chief in

7 Terminal 4 continuously from time you became

8 a chief in January until yesterday?

9 A. No. I was on maternity leave

10 for three months.

11 Q. Other than that --

12 A. Other than that, yes.

13 Q. During what months were you on

14 the maternity leave?

15 A. From July through October.

16 Actually, the end of September.

17 Q. Now, during the time that you

18 had served as deputy chief, have you had any

19 interaction with Mr. Figueroa?

20 A. No.

21 Q. Since you became a deputy chief,

22 has Mr. Figueroa served under your chain of

23 command?

24 A. No.

25 Q. During the time that you served

Page 15

1 KOMPEL VERDI

2 as a deputy chief in Terminal 4, do you know

3 if Mr. Figueroa has been assigned overtime

4 responsibilities in Terminal 4?

5 A. I do not.

6 Q. But even if he had been, you had

7 no interaction with him during those times;

8 is that correct?

9 A. Correct.

10 Q. How did it come about that you

11 became a deputy chief in January of 2013?

12 A. I applied for the position.

13 Q. And can you describe the

14 application process?

15 A. Sure. I -- it's a computer

16 application process. You file the

17 application on-line. You have to take a

18 test prior and you can take the test at any

19 point. Your score goes toward the

20 application and then you go through an

21 interview.

22 Q. And who interviewed you?

23 A. Chief Nasauer.

24 Q. And do you know who selected you

25 as assistant chief?

Page 16

1 KOMPEL VERDI

2 A. I do not. As a chief.

3 Q. I'm sorry.

4 A. A deputy chief.

5 Q. Deputy chief. I'm sorry.

6 Prior to becoming a deputy chief

7 in January of 2013, what was your job title?

8 A. Supervisory Customs and Boarder

9 Protection Officer.

10 Q. How long did you serve as an

11 SCBPO?

12 A. From 2006 to 2013.

13 Q. When in 2006?

14 A. August of 2006.

15 Q. And what were your duties and

16 responsibilities as a supervisory officer?

17 A. From August of 2006 through,

18 till about September of 2011 I was assigned

19 to the mail branch and I was in charge of

20 overseeing the duties and responsibilities

21 of the officers, including their assignments

22 on the work floor.

23 Q. Were you considered the direct

24 supervisor of the CBPOs?

25 A. Some of them.

Page 17

1 KOMPEL VERDI

2 Q. Some of them?

3 A. Correct.

4 Q. And you indicated that you

5 served in the mail branch until sometime in

6 2011?

7 A. Correct.

8 Q. What happened then?

9 A. They reassigned me to the AT-CET

10 team.

11 Q. And what is the CET team?

12 A. It's the Anti-Terrorism

13 Contraband Enforcement Team. It's a team

14 where they focus on terrorism and narcotics.

15 Q. Now, during the time you were

16 assigned to the CET team as a supervisor,

17 did you have any interaction with Mr.

18 Figueroa?

19 A. No.

20 Q. Now, as a supervisor on the CET

21 team, did you actually work in a particular

22 location?

23 A. Yes.

24 Q. What location was that?

25 A. Building 77.

<p style="text-align: right;">Page 18</p> <p>1 KOMPEL VERDI</p> <p>2 Q. Have you ever served as a</p> <p>3 supervisor in passenger processing?</p> <p>4 A. No.</p> <p>5 Q. So is it fair to say that while</p> <p>6 you were a supervisory officer, your two</p> <p>7 assignments were to the mail branch and then</p> <p>8 to the CET team?</p> <p>9 A. Correct.</p> <p>10 Q. Do you know if during the time</p> <p>11 that you were supervisor over the CET team,</p> <p>12 if Mr. Figueroa ever worked that assignment?</p> <p>13 A. No, he did not. With the CET</p> <p>14 team, you said?</p> <p>15 Q. Yes.</p> <p>16 A. Yes.</p> <p>17 Q. How did it come about that you</p> <p>18 original became a supervisory officer?</p> <p>19 A. Same as the process of deputy</p> <p>20 chief.</p> <p>21 Q. Can you describe that?</p> <p>22 A. Sure. It's a application</p> <p>23 process where you apply on-line.</p> <p>24 Q. Are you interviewed?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 20</p> <p>1 KOMPEL VERDI</p> <p>2 Supervisory Customs and Broader Protection</p> <p>3 Officer, do I take it that you were a CBPO?</p> <p>4 A. Yes.</p> <p>5 Q. And how long had you served as a</p> <p>6 CBPO?</p> <p>7 A. The Legacy Agency from 1998</p> <p>8 until the merger in 2001 and then a regular</p> <p>9 CBP officer from 2001 through 2006.</p> <p>10 Q. And immediately prior to</p> <p>11 becoming a supervisor, where were you</p> <p>12 assigned?</p> <p>13 A. Several locations. I worked in</p> <p>14 the mail branch, I worked in AT-CET, I</p> <p>15 worked in Terminal 4 and the other terminals</p> <p>16 as well, the whole passenger processing</p> <p>17 division.</p> <p>18 Q. Was that all at JFK?</p> <p>19 A. Yes.</p> <p>20 Q. Have you ever been assigned to a</p> <p>21 location, other than JFK?</p> <p>22 A. Yes.</p> <p>23 Q. When was that?</p> <p>24 A. Several times. August of 2007</p> <p>25 through January of 2008.</p>
<p style="text-align: right;">Page 19</p> <p>1 KOMPEL VERDI</p> <p>2 Q. And do you know who selected you</p> <p>3 as a supervisory customs & Broader</p> <p>4 Protection Officer?</p> <p>5 A. Usually it's the port director,</p> <p>6 but there are several people before that, so</p> <p>7 I don't know -- other than port director I</p> <p>8 don't know.</p> <p>9 Q. Are you saying that there were</p> <p>10 recommending officials and selecting</p> <p>11 official?</p> <p>12 A. Correct.</p> <p>13 Q. Do you know who the selecting</p> <p>14 official is?</p> <p>15 A. Selecting is usually the port</p> <p>16 director and the DFO?</p> <p>17 Q. And do know who that was in your</p> <p>18 situation?</p> <p>19 A. The port director was Camille</p> <p>20 Polomini and the DFO at the time was Susan</p> <p>21 Mitchell.</p> <p>22 Q. And do you know who recommended</p> <p>23 your appointment as a supervisory officer?</p> <p>24 A. No.</p> <p>25 Q. Now, prior to becoming the</p>	<p style="text-align: right;">Page 21</p> <p>1 KOMPEL VERDI</p> <p>2 Q. Was that a temporary detail?</p> <p>3 A. Yes.</p> <p>4 Q. To where?</p> <p>5 A. Penn Plaza, our field office.</p> <p>6 Again, in April of 2009 I believe through</p> <p>7 August of 2009 and then again in December of</p> <p>8 2009 through January of 2010.</p> <p>9 Q. Were all those temporary</p> <p>10 details?</p> <p>11 A. Yes.</p> <p>12 Q. But even during those times, did</p> <p>13 your permit duty station remain JFK?</p> <p>14 A. Yes.</p> <p>15 Q. So has JFK been your permanent</p> <p>16 duty station the entire time that you were</p> <p>17 either a customs inspector or CBPO?</p> <p>18 A. Yes.</p> <p>19 Q. This may be a dumb question, but</p> <p>20 I have to get it on the record, what do you</p> <p>21 consider your gender to be?</p> <p>22 A. Female.</p> <p>23 Q. What do you consider your race</p> <p>24 to be?</p> <p>25 A. Asian.</p>

6 (Pages 18 - 21)

Page 22

1 KOMPEL VERDI

2 Q. And what you consider your

3 national origin to be?

4 A. Indian.

5 Q. Have you have ever engaged in EO

6 activity?

7 A. No.

8 Q. During your employment with the

9 either customs or CBP, have you ever been

10 written up for disciplinary action?

11 A. No.

12 Q. Have you ever been reprimanded?

13 A. No. Other than this incident,

14 no.

15 Q. Counseled?

16 A. No.

17 Q. Suspended?

18 A. No.

19 Q. So other than what we have been

20 the situation with this incident, as far as

21 you're concerned, you have never been

22 disciplined; is that correct?

23 A. Correct.

24 Q. Now, we have referred to Mr.

25 Figueroa a few times. When did you first

Page 23

1 KOMPEL VERDI

2 meet Mr. Figueroa?

3 A. Whatever year he became an

4 officer or inspector, either one.

5 Q. And prior to you becoming a

6 supervisor, were you and he and coworkers?

7 A. Yes.

8 Q. And were you assigned to the

9 same branch together?

10 A. I don't recall. I don't know

11 where he was assigned.

12 Q. Now, were you ever assigned to

13 passenger processing as a CBPO?

14 A. Yes, sir.

15 Q. And do you know if you were

16 assigned to passenger processing at the same

17 time Mr. Figueroa was assigned to passenger

18 processing?

19 A. Yes.

20 Q. And were you?

21 A. Yes.

22 Q. Now, do you know for what period

23 of time both you and he were assigned to

24 passenger processing at the same time?

25 A. I could tell when I was

Page 24

1 KOMPEL VERDI

2 assigned, but I don't know when he was

3 assigned.

4 Q. Now, during the time that you

5 both worked in passenger processing, did you

6 ever work with Mr. Figueroa?

7 A. Yes.

8 Q. On what type of circumstances?

9 A. Both officers on the work floor.

10 Q. Describe the nature of the

11 interaction you had with Mr. Figueroa during

12 the time that you both served in mail

13 branch?

14 A. In the mail branch?

15 Q. I mean passenger processing.

16 I'm sorry.

17 A. Either I was assigned to the

18 work floor, the control point or we have

19 various assignments. Both of us had similar

20 assignments. So either he would run the

21 work floor and I would be a belt or on

22 control or vise versa, because it was all on

23 the custom side at the time.

24 Q. So do I take it that there were

25 times when both you and he worked on the

Page 25

1 KOMPEL VERDI

2 same team together, the same assignment?

3 A. Well, passenger is not one of

4 the specialized teams, we just call it a

5 branch, but yes.

6 Q. But you and he had to work

7 together; is that correct?

8 A. Correct.

9 Q. And how did the two of you get

10 along while you worked together in the

11 passenger processing?

12 A. Fine. Just cordial.

13 Q. Did you ever have any

14 disagreements with Mr. Figueroa at the time

15 that you both worked in passenger

16 processing?

17 A. No. Not that I can recall.

18 Q. During the time that you both

19 worked in passenger processing, did you and

20 he ever socialize outside of the office?

21 A. Never no.

22 Q. Did you and he ever, under

23 whatever circumstances, see each other

24 outside of the work place?

25 A. No.

<p style="text-align: right;">Page 26</p> <p>1 KOMPEL VERDI</p> <p>2 MR. LYNCH: Objection. You</p> <p>3 can answer.</p> <p>4 A. No.</p> <p>5 Q. Did you ever go to any agency</p> <p>6 functions outside the work place together or</p> <p>7 at the same time?</p> <p>8 MR. LYNCH: Objection. You</p> <p>9 can answer.</p> <p>10 A. No.</p> <p>11 Q. Now, sitting here today, did you</p> <p>12 and Mr. Figueroa have any disputes or issues</p> <p>13 while you both worked in passenger</p> <p>14 processing?</p> <p>15 A. No.</p> <p>16 Q. Now, at some point in time you</p> <p>17 became a supervisor; is that correct?</p> <p>18 A. Yes.</p> <p>19 Q. Now, at the time you became a</p> <p>20 supervisor, were you still working in</p> <p>21 passenger processing?</p> <p>22 A. No.</p> <p>23 Q. Where were you working?</p> <p>24 A. The mail branch.</p> <p>25 Q. Immediately before you became a</p>	<p style="text-align: right;">Page 28</p> <p>1 KOMPEL VERDI</p> <p>2 you were assigned to the mail branch?</p> <p>3 A. Yes.</p> <p>4 Q. Describe the nature of that</p> <p>5 interaction.</p> <p>6 A. I was the floor supervisor or</p> <p>7 the duty supervisor. Everybody rotates</p> <p>8 shifts and at that time I would either be</p> <p>9 what we call in the block house to accept</p> <p>10 signatures for -- everyone signs in, so</p> <p>11 either for that, I would accept leave slips,</p> <p>12 I made assignments. If there were</p> <p>13 incidents, I was in charge of the incident,</p> <p>14 if I was the duty supervisor.</p> <p>15 Q. And that was the nature of you</p> <p>16 as supervisor, he as an officer, the</p> <p>17 interaction that you had, the general</p> <p>18 nature; is that correct?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Now, during what period of time</p> <p>21 was that?</p> <p>22 A. From whenever he started the</p> <p>23 mail branch, whether before me or after,</p> <p>24 until April of 2000 -- I believe it was</p> <p>25 2008.</p>
<p style="text-align: right;">Page 27</p> <p>1 KOMPEL VERDI</p> <p>2 supervisor?</p> <p>3 A. AT-CET.</p> <p>4 Q. And your first assignment as a</p> <p>5 supervisor was in the mail branch; is that</p> <p>6 correct?</p> <p>7 A. Yes.</p> <p>8 Q. And at the time you became a</p> <p>9 supervisor in the mail branch, was Mr.</p> <p>10 Figueroa assigned to the mail branch?</p> <p>11 A. I don't recall when he started</p> <p>12 the mail branch.</p> <p>13 Q. At some point in time was he</p> <p>14 assigned to the mail branch?</p> <p>15 A. Yes.</p> <p>16 Q. During the time that Mr.</p> <p>17 Figueroa or at some point in time while he</p> <p>18 was assigned to the mail branch, were you</p> <p>19 his immediate supervisor?</p> <p>20 A. No.</p> <p>21 Q. Were you ever his immediate</p> <p>22 supervisor?</p> <p>23 A. No.</p> <p>24 Q. Did you ever have any</p> <p>25 interaction with Mr. Figueroa while he and</p>	<p style="text-align: right;">Page 29</p> <p>1 KOMPEL VERDI</p> <p>2 Q. What happened then?</p> <p>3 A. One moment. Let me just see.</p> <p>4 It's either April of 2008 or April of 2007.</p> <p>5 I can't recall the exact date.</p> <p>6 Q. But in any case, what happened</p> <p>7 then?</p> <p>8 A. Mr. Figueroa switched</p> <p>9 assignments.</p> <p>10 Q. Do you know where he switched</p> <p>11 to?</p> <p>12 A. I believe cargo.</p> <p>13 Q. How do you know that he switched</p> <p>14 assignments?</p> <p>15 A. Because I was told.</p> <p>16 Q. Who told you?</p> <p>17 A. Ms. Rios.</p> <p>18 Q. Now, from that time forward, did</p> <p>19 you perform any supervisory duties with</p> <p>20 reference Mr. Figueroa?</p> <p>21 A. Between which time frame?</p> <p>22 Q. From April or --</p> <p>23 A. Whatever the time he left?</p> <p>24 Q. Whatever that time was going</p> <p>25 forward?</p>

8 (Pages 26 - 29)

<p style="text-align: right;">Page 30</p> <p>1 KOMPEL VERDI</p> <p>2 A. No, sir.</p> <p>3 Q. From whatever that time was,</p> <p>4 April '07 or April '08 --</p> <p>5 A. Right.</p> <p>6 Q. -- have you since had any</p> <p>7 interaction, whatsoever, with Mr. Figueroa?</p> <p>8 A. No.</p> <p>9 Q. Between that date, whatever it</p> <p>10 was and today, have you seen Mr. Figueroa?</p> <p>11 MR. LYNCH: Objection. You</p> <p>12 can answer.</p> <p>13 A. Yes.</p> <p>14 Q. Under what circumstances?</p> <p>15 A. Just passing in the parking lot,</p> <p>16 in the hallway, whichever.</p> <p>17 Q. Other than just casually passing</p> <p>18 each other, have you had any interaction</p> <p>19 with him since the time he left the mail</p> <p>20 branch?</p> <p>21 A. No.</p> <p>22 Q. And during those casual</p> <p>23 occurrences that you have just described,</p> <p>24 have you and he spoken?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 32</p> <p>1 KOMPEL VERDI</p> <p>2 A. He did exactly what he was told</p> <p>3 to do. I wouldn't say above and beyond. I</p> <p>4 wouldn't say he did less than anybody else.</p> <p>5 He did exactly what he was told and didn't</p> <p>6 dispute it at that point.</p> <p>7 Q. Now, sitting here today, is</p> <p>8 there anything that stands out in your mind</p> <p>9 that you believe was critical of Mr.</p> <p>10 Figueroa's job performance and I'm not</p> <p>11 talking about this incident, but critical of</p> <p>12 his job performance.</p> <p>13 MR. LYNCH: Objection. You</p> <p>14 can answer.</p> <p>15 A. What do you mean specifically?</p> <p>16 Q. Let me withdraw the question.</p> <p>17 Is there anything that you</p> <p>18 perceived that was critical of his job</p> <p>19 performance?</p> <p>20 MR. LYNCH: Objection. You</p> <p>21 can answer.</p> <p>22 A. Critical as in -- the entire job</p> <p>23 is a law enforcement job. The job is</p> <p>24 critical.</p> <p>25 Q. I don't mean critical in that</p>
<p style="text-align: right;">Page 31</p> <p>1 KOMPEL VERDI</p> <p>2 Q. Since the time that Mr. Figueroa</p> <p>3 left the mail branch, whether April '07 or</p> <p>4 April of '08, have you spoken to Mr.</p> <p>5 Figueroa at all?</p> <p>6 A. No, sir.</p> <p>7 Q. Now, during the time that you</p> <p>8 had some type of supervisory role with</p> <p>9 reference to Mr. Figueroa, as you have just</p> <p>10 described while in the mail branch, how did</p> <p>11 you and he get along?</p> <p>12 A. Fine.</p> <p>13 Q. Did you and he have any</p> <p>14 disagreements during the time that you</p> <p>15 served as a supervisor in the mail branch?</p> <p>16 A. Other than this incident? No.</p> <p>17 Q. During the time that you served</p> <p>18 as a supervisor and he an officer in the</p> <p>19 mail branch, did you have the occasion to</p> <p>20 observe his job performance?</p> <p>21 A. Yes.</p> <p>22 Q. And how would describe his job</p> <p>23 performance?</p> <p>24 A. Average.</p> <p>25 Q. What do you mean by average?</p>	<p style="text-align: right;">Page 33</p> <p>1 KOMPEL VERDI</p> <p>2 way. Let me withdraw the question.</p> <p>3 Did you have any criticisms of</p> <p>4 his job performance at the time?</p> <p>5 MR. LYNCH: Objection. You</p> <p>6 can answer.</p> <p>7 A. Not positive or negative.</p> <p>8 Q. How was it determined which</p> <p>9 officer would work on Thanksgiving and</p> <p>10 Christmas in 2007?</p> <p>11 A. In 2007 I had a -- the</p> <p>12 assignment of giving out holidays and it was</p> <p>13 a very lengthy process, in which I laid out</p> <p>14 several different aspects and then once I</p> <p>15 finished I had three managers review what I</p> <p>16 had done to make sure that it was fairly</p> <p>17 done.</p> <p>18 Q. So what, if any, role did you</p> <p>19 have with reference to the determination of</p> <p>20 which officers would have which holidays off</p> <p>21 in 2007?</p> <p>22 A. At first I handed out the</p> <p>23 sheets. It was called a preference sheet.</p> <p>24 We allowed the officers to put a 1 through</p> <p>25 10 on what they prefer to work and what they</p>

<p style="text-align: right;">Page 34</p> <p>1 KOMPEL VERDI</p> <p>2 not prefer to work. Then I put them in</p> <p>3 seniority order by officer.</p> <p>4 At the time there was probably,</p> <p>5 I would like to say forty, forty-five</p> <p>6 officers assigned to the branch. Then we</p> <p>7 broke it down into groups of the ten</p> <p>8 holidays and officer safety and the needs of</p> <p>9 the service.</p> <p>10 Q. And did you, in fact, have the</p> <p>11 responsibility of determining which officers</p> <p>12 worked which holidays in 2007?</p> <p>13 A. Yes, I did.</p> <p>14 Q. Who delegated that</p> <p>15 responsibility to you?</p> <p>16 A. Chief Rios.</p> <p>17 Q. When did Chief Rios delegate</p> <p>18 that responsibility to you?</p> <p>19 A. Whenever the assignment was</p> <p>20 given to me. It was probably August or</p> <p>21 September of that year.</p> <p>22 Q. Of '07?</p> <p>23 A. Yes.</p> <p>24 Q. Did your determination of the</p> <p>25 holidays include Thanksgiving in 2007?</p>	<p style="text-align: right;">Page 36</p> <p>1 KOMPEL VERDI</p> <p>2 wasn't something I decided. That was the</p> <p>3 way the mail branch did it, to be a little</p> <p>4 more fair to the officers.</p> <p>5 Q. Were you aware of any provision</p> <p>6 in a union contract that concerned the</p> <p>7 assignment of holidays?</p> <p>8 A. There was no union contract at</p> <p>9 that time for holidays.</p> <p>10 Q. Has there been one since?</p> <p>11 A. Yes.</p> <p>12 Q. And when did a union contract</p> <p>13 come into effect that provided for holiday</p> <p>14 assignments?</p> <p>15 A. I can't recall.</p> <p>16 Q. Do you know what it provided</p> <p>17 for?</p> <p>18 A. The way it is now is every -- if</p> <p>19 you're assigned to work a regular workday</p> <p>20 and a holiday falls on that day, you're</p> <p>21 assigned that holiday.</p> <p>22 Q. Now, what, if any, importance</p> <p>23 did seniority have in your determination as</p> <p>24 to who would work what holidays?</p> <p>25 A. Middle of the road.</p>
<p style="text-align: right;">Page 35</p> <p>1 KOMPEL VERDI</p> <p>2 A. Yes.</p> <p>3 Q. And did it include Christmas in</p> <p>4 2007?</p> <p>5 A. Yes.</p> <p>6 Q. And what factors determined your</p> <p>7 decision making process with reference to</p> <p>8 which officers would work which holidays?</p> <p>9 MR. LYNCH: Objection. You</p> <p>10 can answer.</p> <p>11 A. Sure. It would be based on</p> <p>12 their preference of what they would like to</p> <p>13 work, not work, based on their seniority,</p> <p>14 based on how many officers we needed for</p> <p>15 officer safety, based on how many officers</p> <p>16 were needed to carry out the mission of CBP</p> <p>17 at that time.</p> <p>18 Q. And were you aware of any</p> <p>19 written rule, regulation or contractual</p> <p>20 provision that governed holiday assignment?</p> <p>21 A. Yes. Actually -- well, there</p> <p>22 was no contractual. Every other branch went</p> <p>23 through a computer system where every</p> <p>24 officer was assigned every holiday. The</p> <p>25 mail branch did it a different way and that</p>	<p style="text-align: right;">Page 37</p> <p>1 KOMPEL VERDI</p> <p>2 Q. What do you mean middle of the</p> <p>3 road?</p> <p>4 A. Officer safety comes first,</p> <p>5 needs of the service and how many slats we</p> <p>6 had to fill.</p> <p>7 Q. Were those the other factors</p> <p>8 that you considered?</p> <p>9 A. Yes.</p> <p>10 Q. So is it your testimony that</p> <p>11 seniority was not the only factor that you</p> <p>12 considered?</p> <p>13 MR. LYNCH: Objection. Asked</p> <p>14 and answered. You can answer</p> <p>15 again.</p> <p>16 A. Yes.</p> <p>17 Q. Now, with reference to seniority</p> <p>18 at the time, were there officers who were</p> <p>19 less senior than Mr. Figueroa?</p> <p>20 A. Yes.</p> <p>21 Q. And do you remember the names of</p> <p>22 any of them?</p> <p>23 A. I can't recall.</p> <p>24 Q. Was Mr. F[Redacted] one of them,</p> <p>25 Officer F[Redacted]?</p>

10 (Pages 34 - 37)

Page 38

1 KOMPEL VERDI

2 A. I would have to look at

3 seniority list to tell you.

4 Q. You aware of an Officer V[Redacted]

5 do you know if he was less senior than Mr.

6 Figueroa?

7 MR. LYNCH: Objection.

8 MR. WOLIN: On what grounds?

9 MR. LYNCH: You can answer.

10 She just answered she does not

11 recall the names of the

12 officers.

13 MR. WOLIN: Then I have a

14 right to give a specific name

15 to refresh her recollection?

16 Q. Do you remember an Officer

17 V[Redacted]?

18 A. I remember an Officer V[Redacted]

19 yes.

20 Q. Do you know if Officer V[Redacted]

21 was less senior than Mr. Figueroa?

22 A. I would have to look at the

23 seniority list.

24 Q. Now, did Mr. Figueroa request to

25 work Thanksgiving in 2007?

Page 39

1 KOMPEL VERDI

2 A. I'd have look at his bid sheet,

3 but with this incident I would have to say

4 no.

5 Q. And did you, in fact, assign

6 Officer Figueroa to work Thanksgiving in

7 2007?

8 A. Apparently.

9 Q. And what do you mean apparently?

10 A. Apparently, because that's where

11 this incident started.

12 Q. And why did you assign him to

13 work Thanksgiving in 2007?

14 A. Once again, based on all the

15 factors I gave you.

16 Q. Well, what factors particularly

17 influenced you to assign Mr. Figueroa

18 working Thanksgiving?

19 MR. LYNCH: Objection. Asked

20 and answered. You can answer

21 again.

22 A. The same thing. How many

23 officers we needed, how many officers were

24 necessary for officer safety and to carry

25 out the mission. Those were the primary

Page 40

1 KOMPEL VERDI

2 reasons.

3 Q. How did you apply those factors

4 with reference to Thanksgiving in 2007?

5 A. First there was slots listed per

6 holiday, per the chief of the branch, the

7 number of slots were listed and then I was

8 assigned to fill in the slots. I wasn't in

9 charge of how many slots were designated for

10 officer safety.

11 Q. Now, with reference to the

12 slots, the number of slots and the needs of

13 the service, so you had to designate a

14 certain amount of people to work on

15 Thanksgiving with reference to those needs

16 and the manpower that was required; is that

17 correct?

18 A. Yes.

19 Q. So in determining who actually

20 would work, taking into consideration the

21 needs of the service, how did you actually

22 determine who would work Thanksgiving of

23 2007?

24 A. Sure. I took the sheets, trying

25 to put it in some sort of order. I put them

Page 41

1 KOMPEL VERDI

2 in seniority order. I took person number

3 one and filled in their name on their

4 preference to work because, they had the

5 most seniority, so that slot would be

6 filled. I went all the way down the line to

7 forty officers with ten holidays.

8 Q. Is it fair to say that with

9 reference to Thanksgiving, you primarily

10 consider preferences and seniority?

11 A. Yes.

12 MR. LYNCH: Objection. You

13 can answer.

14 A. Yes.

15 Q. Is it fair to say that with

16 receive for Thanksgiving you primary

17 considered preferences and seniority?

18 A. Yes.

19 Q. Would the same process have

20 applied with reference to Christmas of 2007?

21 A. Yes.

22 Q. And did you assign Officer

23 Figueroa with working Christmas in 2007?

24 A. No.

25 Q. What other holidays, besides

<p style="text-align: right;">Page 42</p> <p>1 KOMPEL VERDI</p> <p>2 Thanksgiving, did you assigned Officer</p> <p>3 Figueroa with the task of working, I guess</p> <p>4 in 2007 and 2008?</p> <p>5 A. I can't recall.</p> <p>6 Q. Is thanksgiving the only one you</p> <p>7 recall --</p> <p>8 A. Yes.</p> <p>9 Q. Is Thanksgiving the only one</p> <p>10 recall sitting here today?</p> <p>11 A. Yes.</p> <p>12 Q. Now, if less senior officers</p> <p>13 than Mr. Figueroa were not assigned</p> <p>14 Thanksgiving, why would that have been the</p> <p>15 case?</p> <p>16 A. Excuse me? Can you repeat the</p> <p>17 question?</p> <p>18 Q. Sure. If less senior officers</p> <p>19 than Mr. Figueroa were not assigned to work</p> <p>20 Thanksgiving and Mr. Figueroa was assigned</p> <p>21 to work Thanksgiving, how would that have</p> <p>22 happened?</p> <p>23 MR. LYNCH: Objection. You</p> <p>24 can answer.</p> <p>25 A. Two ways. Number 1, it depends</p>	<p style="text-align: right;">Page 44</p> <p>1 KOMPEL VERDI</p> <p>2 MR. LYNCH: Objection. You</p> <p>3 can answer.</p> <p>4 A. Yes.</p> <p>5 Q. Now, with particular reference</p> <p>6 to Mr. Figueroa, I mean you stated in</p> <p>7 general the methodology you applied, but</p> <p>8 with specific reference to Mr. Figueroa</p> <p>9 working Thanksgiving in 2007, what factors</p> <p>10 did you consider which resulted in you</p> <p>11 having him work Thanksgiving in 2007?</p> <p>12 MR. LYNCH: Objection. You</p> <p>13 can answer.</p> <p>14 A. It's the same factors and I</p> <p>15 never looked at names on a sheet. Just</p> <p>16 numbers and preferences. So it wasn't a</p> <p>17 matter of picking an officer by name. Same</p> <p>18 thing, it's the officers, how many slots we</p> <p>19 had, officer safety and how many we needed</p> <p>20 to carry out the mission?</p> <p>21 Q. Now, you indicated that</p> <p>22 preferences and seniority were the primary</p> <p>23 considerations?</p> <p>24 A. That's not what I said.</p> <p>25 Q. Well, all right. I believe the</p>
<p style="text-align: right;">Page 43</p> <p>1 KOMPEL VERDI</p> <p>2 on the tour of duty. We were trying to be</p> <p>3 fair to the officers and not move them out</p> <p>4 of their regular tour of duty to accommodate</p> <p>5 the slots. The second way is if they -- the</p> <p>6 way we decided to do at the mail branch, the</p> <p>7 most junior person normally in a normal</p> <p>8 branch, the way before the bid and rotation</p> <p>9 came through, every junior officer would</p> <p>10 work all the major holidays. The way the</p> <p>11 mail branch did it, we assigned however many</p> <p>12 junior people to fill the slots to work one</p> <p>13 major holiday.</p> <p>14 Q. Now, do you consider whether</p> <p>15 that officer worked the major holidays the</p> <p>16 previous year?</p> <p>17 A. No.</p> <p>18 Q. Prior to December 29th, 2007,</p> <p>19 did you have any conversation with Mr.</p> <p>20 Figueroa about him working on Thanksgiving?</p> <p>21 A. No.</p> <p>22 Q. Is it your testimony that the</p> <p>23 incident on December 29th, 2007, was the</p> <p>24 first time you and he spoke about him</p> <p>25 working Thanksgiving?</p>	<p style="text-align: right;">Page 45</p> <p>1 KOMPEL VERDI</p> <p>2 record will reflect what you said.</p> <p>3 MR. LYNCH: Objection? She</p> <p>4 did state, she gave the three</p> <p>5 factors. Needs of the service.</p> <p>6 Seniority and the other factor.</p> <p>7 THE WITNESS: Officer safety.</p> <p>8 MR. LYNCH: Officer safety.</p> <p>9 Q. What was there about officer</p> <p>10 safety that dictated Mr. Figueroa work</p> <p>11 Thanksgiving.</p> <p>12 A. His seniority helped determine</p> <p>13 that, because he didn't have enough</p> <p>14 seniority not to work a major holiday.</p> <p>15 Q. So is it your testimony that his</p> <p>16 seniority with reference to Thanksgiving</p> <p>17 worked against him?</p> <p>18 MR. LYNCH: Objection. You</p> <p>19 can answer.</p> <p>20 A. Sure. If he's junior, he's</p> <p>21 going to work a major holiday.</p> <p>22 Q. Even if less junior officers do</p> <p>23 not have to work that major holiday?</p> <p>24 MR. LYNCH: Objection. You</p> <p>25 can answer.</p>

12 (Pages 42 - 45)

Page 46

1 KOMPEL VERDI

2 A. Junior officers did work major

3 holidays. They were assigned to other

4 branches.

5 Q. What do you mean they were

6 assigned other branches?

7 A. We had gotten told that all

8 junior officers would work a major holiday,

9 whether it was the mail branch or if the

10 need was in the terminals. So junior

11 officers were assigned major holidays.

12 Q. Did you assign Officer Figueroa

13 to work any other major holiday?

14 A. I can't recall. If you consider

15 the major Holidays Christmas and New Years,

16 no, I did not.

17 Q. What did you consider the major

18 holidays --

19 A. Those were the three major

20 holidays.

21 Q. With reference to those three

22 major holidays, were there more senior

23 officers than Officer Figueroa who worked

24 any of those three holidays?

25 A. Once again, you would have to

Page 47

1 KOMPEL VERDI

2 give me the seniority list and the slets to

3 look at what I did.

4 Q. Sitting here today, do you

5 remember?

6 A. No.

7 Q. Now, did you become aware that

8 Officer Figueroa complained to higher

9 management about your assignment of him to

10 work Thanksgiving?

11 A. No.

12 Q. Did you ever speak to Chief

13 Jernigan about the issue of Mr. Figueroa

14 working Thanksgiving?

15 A. No.

16 Q. Did you ever speak to deputy

17 Chief Rios?

18 A. Yes.

19 Q. When for the first time?

20 A. Not specifically about him, but

21 about everybody's assignments.

22 Q. When did you have that

23 conversation with her?

24 A. Before I submitted the

25 assignments.

Page 48

1 KOMPEL VERDI

2 Q. What did she say?

3 A. She looked at the assignments.

4 She said they were done fairly. I went

5 through it with her and two other managers

6 and they were fine with it, signed off on it

7 and it moved on.

8 Q. Who were the other two managers?

9 A. Ben Sciacca and Charlie Mattina.

10 Q. Did you ever speak to any of

11 them specifically about Mr. Figueroa working

12 Thanksgiving?

13 A. No.

14 Q. Did you speak to anybody

15 specifically about Mr. Figueroa working

16 Thanksgiving?

17 A. No.

18 Q. Did you communicate in any

19 fashion, whatsoever, including E-mail, about

20 Mr. Figueroa working Thanksgiving?

21 A. No.

22 Q. Do you have knowledge that Mr.

23 Figueroa did complain about your assignment

24 of him on Thanksgiving?

25 MR. LYNCH: Objection. You

Page 49

1 KOMPEL VERDI

2 can answer.

3 A. It's the same thing you asked me

4 a few minutes ago and I said, "No."

5 Q. Sitting here today, do you know

6 now have knowledge that he complained about

7 your assignment of him?

8 MR. LYNCH: Objection. You

9 can answer.

10 A. No.

11 MR. WOLIN: I have a few

12 calls to make. Let's take a

13 few second break.

14 (Whereupon, at this time a

15 brief recess was taken.)

16 Q. Do you know what major holiday

17 Officer FRedacted worked in 2007?

18 A. I do not.

19 Q. Do you know if he worked

20 Christmas?

21 A. I don't know.

22 Q. Do you remember his originally

23 being assigned to work on Christmas, then

24 you giving him the day off?

25 A. I don't recall.

Page 50

1 KOMPEL VERDI

2 Q. Now, I want to direct your

3 attention to December 20, 2007. On that day

4 were you and Mr. Figueroa both assigned to

5 the mail branch?

6 A. Yes.

7 Q. And on that day some kind of

8 interaction occur between you and Mr.

9 Figueroa?

10 A. Correct.

11 Q. What shift were you working on

12 that day?

13 A. I believe four to midnight.

14 Q. Do you know what shift he was

15 working?

16 A. He was usually four to midnight.

17 Q. Approximately, what time of day

18 did this interaction occur?

19 A. The actual incident? The actual

20 incident started about 9:30.

21 Q. 9:30 p.m., right?

22 A. Correct.

23 Q. What happened?

24 MR. LYNCH: Objection. You

25 can answer.

Page 51

1 KOMPEL VERDI

2 MR. WOLIN: Objection to

3 what. Asking her what

4 happened?

5 Q. What happened?

6 MR. LYNCH: It's vague.

7 A. Well, there were -- I will start

8 from the beginning to give you an idea.

9 Q. Yes.

10 A. The postal service has several

11 express segregation machines and they -- we

12 assign officers to run the machines, they're

13 x-ray machines. You can assign up to six

14 people. Postal management called me and

15 asked me, because of the flow of the mail,

16 they only needed one person. So I took -- I

17 personally walked over and took Mr.

18 Figueroa, as well as other officers, off the

19 assignment to reassign them, because they

20 were no longer needed at this assignment.

21 so I notified Mr. Figueroa he

22 didn't need to work there anymore. That he

23 can come down, follow me down, he can work

24 in the enforcement cage to write up

25 seizures. On the way down to his new

Page 52

1 KOMPEL VERDI

2 assignment I noticed he was upset or

3 agitated. I could tell from his facial

4 express. Nothing was said, just from his

5 facial expression. I asked him if

6 everything was okay.

7 Q. And where were you when you

8 asked him if everything was okay?

9 A. Walking down to the second

10 assignment.

11 Q. Did he respond to you?

12 A. Yes.

13 Q. What did he say?

14 A. He said he wanted to talk, he

15 was not happy, he wanted to talk, but not in

16 front of everyone.

17 Q. Now, in your estimation, who

18 sought to initiate the conversation, you an

19 Mr. Figueroa?

20 MR. LYNCH: Objection.

21 A. I did.

22 MR. LYNCH: You can answer.

23 Q. Answer it.

24 A. I did.

25 Q. And did Mr. Figueroa ever tell

Page 53

1 KOMPEL VERDI

2 you that he didn't want to talk to you?

3 A. No.

4 Q. Did he ever tell you to leave

5 him alone, that there was nothing to

6 discuss?

7 A. No.

8 Q. Now, Mr. Figueroa has testified

9 that you sought to speak to him on

10 approximately three occasions before you met

11 in the detention room; is that --

12 MR. LYNCH: Objection.

13 Q. That is what happened?

14 A. On that day?

15 Q. Yes.

16 A. No.

17 Q. So continue testifying to what

18 happened.

19 A. So we walked down and he asked

20 to speak privately. So I walked with him

21 into what's call the detention room. It's a

22 private room that's monitored by video and

23 it's only accessed by certain people

24 assigned to that room or managers. So I

25 took him into the detention room so that we

Page 54

1 KOMPEL VERDI
2 can speak.
3 Q. Now, where is the detention room
4 with reference to where you first asked him
5 to talk?
6 A. Maybe about 200 feet.
7 Q. And did you and Mr. Figueroa
8 both walk to that detention room together?
9 A. Yes.
10 Q. Was there any conversation as
11 you were walking to the detention room?
12 A. Not once he told me he wanted to
13 speak privately.
14 Q. Now, other than what you have
15 testified to, was there any other
16 conversation between you and Mr. Figueroa,
17 prior to entering the detention room?
18 MR. LYNCH: Objection. You
19 can answer.
20 A. As far as just giving him his
21 assignment for the day. That's about it.
22 Q. Once you asked to speak to him,
23 was there any other conversation, other than
24 what you have already testified to, prior to
25 going into the detention room?

Page 55

1 KOMPEL VERDI
2 A. Just that I asked him if he was
3 okay and he said he would like to talk
4 privately.
5 Q. Was there any other
6 conversation?
7 A. Not that I can recall.
8 Q. Did you tell him that you
9 thought there was a problem between the two
10 of us?
11 A. No.
12 Q. And why did you want to speak
13 with him on that occasion?
14 MR. LYNCH: Objection. She
15 didn't testify she wanted to
16 speak with him.
17 Q. You requested to speak to him;
18 am I correct?
19 A. I asked him what was wrong. He
20 requested to have a conversation.
21 Q. And did you have any idea as to
22 what was wrong at the time you asked him
23 that?
24 A. No.
25 Q. So it's your testimony that he

Page 56

1 KOMPEL VERDI
2 is the one that wanted to have the
3 conversation?
4 A. Yes.
5 Q. As you were walking to the
6 detention room, did he tell you why he
7 wanted to have the conversation?
8 A. He had mentioned that it was
9 about the holidays, but that was the end of
10 it, that he had talked about that, that he
11 wanted to speak about the holidays.
12 Q. And he said that as you and he
13 were walking toward the detention room?
14 A. We were just about there, yes.
15 Q. And did you say anything in
16 response to his telling you that it was
17 about the holidays?
18 A. No. He wanted to talk
19 privately.
20 Q. And did both you and he enter
21 the detention room?
22 A. Yes.
23 Q. Now, you indicated that there
24 was video capability in the detention room?
25 A. Yes, sir.

Page 57

1 KOMPEL VERDI
2 Q. Was the encounter between you
3 and he tape-recorded?
4 A. It was, however it rerecords
5 ever forty-eight hours, so by the time it's
6 been asked for it rerecord, unless you pull
7 it.
8 Q. Did you ever review the
9 videotape?
10 A. Never.
11 Q. So is it your testimony the
12 video recording of the encounter between you
13 and Mr. Figueroa ceased to exist forty-eight
14 hours after it happened?
15 A. Correct.
16 Q. And between the time you had the
17 encounter in the detention room and
18 forty-eight hours thereafter, did you make
19 any effort to preserve the recording?
20 A. We don't have access to that.
21 We didn't have access to touching the
22 equipment?
23 Q. But could you have made a
24 request that it be preserved?
25 A. Not on the weekend.

Page 58

1 KOMPEL VERDI

2 Q. What do you mean not on the

3 weekend?

4 A. On the weekend. You would have

5 to wait until Monday morning, which does

6 fall in that forty-eight-hour period in case

7 it did happen, but I did not.

8 Q. Was there any particular reason

9 why you did not?

10 A. Because I didn't -- I wasn't

11 looking to pursue any incident at that

12 point.

13 Q. But you did ultimately furnish a

14 report, right?

15 A. Yes.

16 Q. When did you furnish the report?

17 A. A few days later.

18 Q. On the 31st, right?

19 A. Yes.

20 Q. So that was still within the

21 forty-eight hours?

22 A. No.

23 Q. So when did you decide to

24 furnish the report?

25 A. That day.

Page 59

1 KOMPEL VERDI

2 Q. The 31st?

3 A. Yes, sir.

4 Q. What time of day?

5 A. I couldn't tell you.

6 Q. So now the 29th was what day of

7 the week?

8 A. Saturday.

9 Q. And the 31st was a Monday?

10 A. Right.

11 Q. When did you decide to furnish

12 this report to Chief Rios?

13 A. On the 31st.

14 MR. LYNCH: Objection.

15 Q. Why did you decide to furnish

16 the report to Chief Rios?

17 A. She asked for it.

18 Q. When did she ask for it?

19 A. On the 31st.

20 Q. Would you have furnished the

21 report to her had she not asked for it?

22 A. Maybe. I couldn't tell. She

23 got to me and she asked for it, so I gave it

24 to her.

25 Q. Do you know how she learned of

Page 60

1 KOMPEL VERDI

2 this incident?

3 A. Yes.

4 Q. How?

5 A. By my E-mail to her and as well

6 as several officers.

7 Q. Now, is that the E-mail that you

8 previously identified?

9 A. Yes.

10 Q. When did you send that E-mail to

11 her?

12 A. On the 29th.

13 Q. Why did you send this E-mail to

14 Chief Rios and others on the 29th?

15 A. As to document the file.

16 Q. Why did you want to document the

17 file?

18 A. We document -- as managers we

19 document every incident.

20 Q. And what was there about this

21 incident that you believed deserved to be

22 documented?

23 A. I felt that I was threatened. I

24 was cursed at. I was demeaned. I wasn't

25 happy with the way I was treated.

Page 61

1 KOMPEL VERDI

2 Q. So under those circumstances,

3 why didn't you try to preserve the tape?

4 A. I didn't think of the tape until

5 two days later. I'm not looking to take

6 somebody into that room just for a recorded

7 conversation. I looked for a private area,

8 that was my priority.

9 Q. And even though you sent this

10 E-mail on the 29th to Chief Rios and others,

11 you didn't think it necessary to try to

12 preserve the tape?

13 A. No.

14 Q. Did you ever make any effort to

15 find out if the tape was still there?

16 A. After not requesting for it

17 there was nothing else. I didn't request

18 it, end of story.

19 Q. Now, would there have been a

20 procedure or protocol by which you could

21 have requested that the tape be preserved?

22 A. Yes. I would ask Chief Rios and

23 she would go further.

24 Q. That was not done; is that

25 correct?

<p style="text-align: right;">Page 62</p> <p>1 KOMPEL VERDI</p> <p>2 A. Yes.</p> <p>3 Q. Now, do you know if Chief Rios,</p> <p>4 after you sent her this E-mail on the 29th,</p> <p>5 made any effort to preserve the tape?</p> <p>6 A. I didn't ask her.</p> <p>7 Q. Did she ever discuss the tape</p> <p>8 with you?</p> <p>9 A. No.</p> <p>10 Q. Do you know for a fact that that</p> <p>11 tape no longer existed forty-eight hours</p> <p>12 after the interaction?</p> <p>13 A. Yes.</p> <p>14 Q. How do you know that is a fact?</p> <p>15 A. Because that room is watched and</p> <p>16 monitored for a reason by a security</p> <p>17 company.</p> <p>18 Q. What's the security company?</p> <p>19 A. I couldn't tell you. I haven't</p> <p>20 worked there in years.</p> <p>21 Q. So when you got into the</p> <p>22 detention room, what happened?</p> <p>23 A. I let Mr. Figueroa talk and I</p> <p>24 was thinking that he was going to vent and</p> <p>25 he stood in front of me and in a defensive</p>	<p style="text-align: right;">Page 64</p> <p>1 KOMPEL VERDI</p> <p>2 Figueroa from each other?</p> <p>3 A. When we walked in the room,</p> <p>4 probably a couple of feet. By the time</p> <p>5 Mr. Figueroa started yelling at me, probably</p> <p>6 a few inches.</p> <p>7 Q. And how large is the detention</p> <p>8 room?</p> <p>9 A. Probably the size of this room.</p> <p>10 Maybe a slight bit bigger.</p> <p>11 Q. Well, the record is not going to</p> <p>12 be able visualize the size of this room, so</p> <p>13 can you approximate it?</p> <p>14 A. It's a large room.</p> <p>15 Q. Now, can you approximate it in</p> <p>16 terms of feet?</p> <p>17 MR. LYNCH: Objection.</p> <p>18 A. No.</p> <p>19 Q. Now, you indicated that Mr.</p> <p>20 Figueroa assumed the defensive posture, you</p> <p>21 said?</p> <p>22 A. Yes.</p> <p>23 Q. Can you describe what you meant</p> <p>24 by that?</p> <p>25 A. Sure. When you work for CBP you</p>
<p style="text-align: right;">Page 63</p> <p>1 KOMPEL VERDI</p> <p>2 stance pointed his finger at my face, cursed</p> <p>3 at me repeatedly and told me that I screwed</p> <p>4 him, that I fucked him with the holiday and</p> <p>5 that I knew I was wrong. He didn't think I</p> <p>6 was like that.</p> <p>7 Q. Now, how long did this encounter</p> <p>8 in the detention room take?</p> <p>9 A. About fifteen, twenty minutes?</p> <p>10 Q. Were you standing, were you</p> <p>11 sitting or a combination?</p> <p>12 A. Standing.</p> <p>13 Q. You were standing the whole</p> <p>14 time?</p> <p>15 A. Yes.</p> <p>16 Q. How about Mr. Figueroa?</p> <p>17 A. Standing.</p> <p>18 Q. So you were both standing?</p> <p>19 A. Yes.</p> <p>20 Q. None of you sat during the</p> <p>21 entire event?</p> <p>22 A. That's what standing is, yes.</p> <p>23 Q. Were there chairs in the room?</p> <p>24 A. Yes.</p> <p>25 Q. And how far were you and Mr.</p>	<p style="text-align: right;">Page 65</p> <p>1 KOMPEL VERDI</p> <p>2 are trained on being defensive against a</p> <p>3 passenger or some threatening situations, so</p> <p>4 his body was bladed with his -- his gun side</p> <p>5 away from me, but his body bladed and he was</p> <p>6 talking at me with his hands.</p> <p>7 Q. What do you mean he was talking</p> <p>8 at you with his hands?</p> <p>9 A. I don't know how to clarify that</p> <p>10 anymore.</p> <p>11 Q. Were his hands were talking?</p> <p>12 A. He was talking to me with his</p> <p>13 hands pointed at my face.</p> <p>14 Q. So he was gesturing with his</p> <p>15 hands as he was speaking to you?</p> <p>16 A. Yes.</p> <p>17 Q. Can you describe the hand</p> <p>18 gestures that he was making?</p> <p>19 A. Yes. He was point his finger at</p> <p>20 my face, cursing at me, telling me I was</p> <p>21 wrong.</p> <p>22 Q. What finger did he point at you?</p> <p>23 A. I couldn't tell you.</p> <p>24 Q. Which hand was it?</p> <p>25 A. I couldn't tell you.</p>

17 (Pages 62 - 65)

<p style="text-align: right;">Page 66</p> <p>1 KOMPEL VERDI</p> <p>2 Q. And how far did the finger come</p> <p>3 from you?</p> <p>4 A. Probably between one and two</p> <p>5 inches.</p> <p>6 Q. And did you retreat at any time</p> <p>7 during the encounter?</p> <p>8 A. Yes, I did.</p> <p>9 Q. How did you retreat?</p> <p>10 A. I moved back.</p> <p>11 Q. And how far did you move back?</p> <p>12 A. About two feet.</p> <p>13 Q. Did Mr. Figueroa move closer to</p> <p>14 you as you moved back?</p> <p>15 A. Yes.</p> <p>16 Q. And how far was he from you?</p> <p>17 A. A few inches at each time.</p> <p>18 Q. Now, once you got into the</p> <p>19 detention room, what was the first thing</p> <p>20 that you remember was said?</p> <p>21 A. The whole conversation was the</p> <p>22 same thing. It was just, "You fucked me</p> <p>23 with the holiday. I didn't think you were</p> <p>24 like that. I thought we were friends. I</p> <p>25 thought, you know, why -- management is out</p>	<p style="text-align: right;">Page 68</p> <p>1 KOMPEL VERDI</p> <p>2 which is what I explained to you earlier.</p> <p>3 Q. What did you say to him then?</p> <p>4 A. Same thing, that I took all the</p> <p>5 sheets, I put them in seniority order I</p> <p>6 filled in the sheets and he would not let me</p> <p>7 speak. So I let him continue. I didn't</p> <p>8 think it was worth arguing with him. I let</p> <p>9 him continue to vent.</p> <p>10 Q. Why didn't you walk out?</p> <p>11 A. Twenty minutes of it going</p> <p>12 nowhere, the same conversation and starting</p> <p>13 to feel threatened, I didn't want to be</p> <p>14 alone in that room anymore.</p> <p>15 Q. So why did it take you twenty</p> <p>16 minutes to walk out?</p> <p>17 A. Because I was trying to give the</p> <p>18 person the benefit of the doubt to vent.</p> <p>19 Q. So --</p> <p>20 A. Hoping that it would make him</p> <p>21 feel better to be able to talk about it.</p> <p>22 Q. So were you permitting him to go</p> <p>23 on and on because you believed that he was</p> <p>24 venting and would feel better about things,</p> <p>25 right?</p>
<p style="text-align: right;">Page 67</p> <p>1 KOMPEL VERDI</p> <p>2 to get me. Why are you -- uh --" he just</p> <p>3 kept on screaming at me and I felt</p> <p>4 threatened.</p> <p>5 Q. Who spoke first?</p> <p>6 A. I let Mr. Figueroa speak so he</p> <p>7 could tell me what the issue was.</p> <p>8 Q. And what did he tell you the</p> <p>9 issue was?</p> <p>10 A. The holiday schedule.</p> <p>11 Q. Tell me everything you remember</p> <p>12 him saying in order?</p> <p>13 MR. LYNCH: Objection.</p> <p>14 Q. In order, tell me everything you</p> <p>15 remember him saying?</p> <p>16 MR. LYNCH: You can answer</p> <p>17 again.</p> <p>18 A. Same thing. We walked into the</p> <p>19 room. He said, "You fucked me with the</p> <p>20 schedule. I didn't think --" the order I</p> <p>21 remember is, "I didn't think you were like</p> <p>22 that. Why -- you know, I shouldn't have to</p> <p>23 work these holidays," and at that point I</p> <p>24 tried to, which I did not have to do, I</p> <p>25 tried to explain the process of what I did,</p>	<p style="text-align: right;">Page 69</p> <p>1 KOMPEL VERDI</p> <p>2 MR. LYNCH: Objection. You</p> <p>3 can answer.</p> <p>4 A. Yes.</p> <p>5 Q. And other than what you have</p> <p>6 testified Mr. Figueroa said, what, if</p> <p>7 anything else, did he say?</p> <p>8 A. That was the same conversation</p> <p>9 over and over again that I can recall.</p> <p>10 Q. And what, if anything, did you</p> <p>11 say, other than what you have testified to?</p> <p>12 A. I tried to defuse the situation</p> <p>13 just by telling him, "Okay, well, there's</p> <p>14 not much you can do based on all the factors</p> <p>15 of the holidays." And I said, "Well, you</p> <p>16 screwed me over and over again." And I said</p> <p>17 to him, "I'm sorry you feel that way," and</p> <p>18 we -- I told him the conversation was over</p> <p>19 and I opened the door for him.</p> <p>20 Q. Now, you indicated to him that</p> <p>21 you had placed everyone in seniority order?</p> <p>22 A. That was one of the factors, not</p> <p>23 the only factor.</p> <p>24 Q. And did you tell him what other</p> <p>25 factors were utilized?</p>

Page 70

1 KOMPEL VERDI

2 A. Yes. I explained the same

3 process to him that I explained to you, that

4 it was based on officer safety, needs of the

5 service. Seniority was a factor, but it was

6 not the only factor.

7 Q. Now, I'm still a little unclear

8 on this. What was there about the needs of

9 service, which dictated that Mr. Figueroa

10 work the Thanksgiving holiday?

11 MR. LYNCH: Objection. She

12 answered this few times.

13 Q. Can you answer it again?

14 MR. LYNCH: Answer it again.

15 A. You're talking about a law

16 enforcement agency that deals with

17 terrorism. The threat goes up every single

18 day. The more officers assigned, the better

19 it is for the agency. Every year more

20 officers were, at that point, assigned to a

21 branch. When you have more officers you are

22 able to utilize more officers.

23 Q. What was there about Mr.

24 Figueroa that he had to be one of the people

25 chosen?

Page 71

1 KOMPEL VERDI

2 A. He was not picked out because it

3 was him. It went based on the papers I had

4 in front of me. You could put a piece of

5 tape over every persons' name and the

6 results would have been the same.

7 Q. And those papers were the

8 seniority list; is that correct?

9 A. It's not a seniority list. It

10 was preference sheets.

11 Q. And you also had this seniority

12 list; am I correct?

13 A. Yes. I had seniority list at

14 the time, but not with that group of papers,

15 yes.

16 Q. Other than the seniority list

17 and the preference list, did you work off

18 any other documents in making the

19 assignments?

20 A. Just the spreadsheet that I

21 created.

22 Q. But that was the document you

23 created?

24 A. Yes.

25 Q. But the two documents you

Page 72

1 KOMPEL VERDI

2 utilized to create the spreadsheet were the

3 preference sheets and seniority sheets,

4 right?

5 A. Yes.

6 Q. Did you say to Mr. Figueroa

7 words to effect, "Well, you got to

8 understand, I did not mean it to turn out

9 that way"; did you say words to that effect?

10 A. I'm sorry, no.

11 Q. Was the COSS system discussed at

12 all during this encounter?

13 A. No.

14 Q. Now, is Mr. F[Redacted]'s name

15 mentioned during this encounter?

16 A. Not that I can recall.

17 Q. Did you say to him words to the

18 effect that, "Well, if you thought you

19 assignment process is so easy, then maybe

20 you should have done it yourself"; did you

21 say anything to that effect?

22 A. No.

23 Q. How did the encounter end?

24 A. I opened the door and let Mr.

25 Figueroa out of the detention room.

Page 73

1 KOMPEL VERDI

2 Q. Did you perceive him to calmer

3 at the end?

4 A. No.

5 Q. Was he still according to your

6 testimony, shouting when he left the

7 detention room?

8 A. No.

9 Q. Did you raise your voice at all

10 in the detention room?

11 A. No.

12 Q. Did Mr. Figueroa raise his

13 voice?

14 A. Several times.

15 Q. And you believe that was part of

16 the venting process; is that correct?

17 A. Yes.

18 Q. Did you use any profanity during

19 the encounter?

20 A. No, I did not.

21 Q. Did you use the "F" word?

22 A. No.

23 Q. Did you say words to the effect,

24 "I didn't fuck you out of the holiday"?

25 A. No.

<p style="text-align: right;">Page 74</p> <p>1 KOMPEL VERDI</p> <p>2 Q. Now, after this meeting or</p> <p>3 encounter took place, did Mr. Figueroa ask</p> <p>4 to leave early?</p> <p>5 A. Yes.</p> <p>6 Q. Did he say he felt ill?</p> <p>7 A. Yes.</p> <p>8 Q. And did he tell you that he felt</p> <p>9 ill?</p> <p>10 A. He said he was going home sick.</p> <p>11 Those were his exact words.</p> <p>12 Q. Did he say that to you?</p> <p>13 A. Yes.</p> <p>14 Q. What, if anything, did you say</p> <p>15 in response?</p> <p>16 A. I didn't say anything in</p> <p>17 response.</p> <p>18 Q. Did you authorize him to leave?</p> <p>19 A. I had no choice. He threw a</p> <p>20 piece of my paper in my face and walked out.</p> <p>21 Q. Now, you say you threw a piece</p> <p>22 of paper in your face. Did you document</p> <p>23 that in my of your reports?</p> <p>24 A. No.</p> <p>25 Q. Why not?</p>	<p style="text-align: right;">Page 76</p> <p>1 KOMPEL VERDI</p> <p>2 A. One was Officer Fasano. The</p> <p>3 rest of the officers, they never came over</p> <p>4 to tell me who they were, but I was told</p> <p>5 there were several witnesses that went to</p> <p>6 Chief Rios.</p> <p>7 Q. Do you know who they are?</p> <p>8 A. No.</p> <p>9 Q. Do you know if they ever gave</p> <p>10 statements?</p> <p>11 A. I don't know.</p> <p>12 Q. Getting back to the following</p> <p>13 day.</p> <p>14 MR. LYNCH: Just to clarify</p> <p>15 for the record, though, when</p> <p>16 you're referring to, because</p> <p>17 there were two, when Mr.</p> <p>18 Figueroa -- when she testified</p> <p>19 he threw the leave slip at her</p> <p>20 but then also the incident</p> <p>21 involving the detention room,</p> <p>22 so I think for record you want</p> <p>23 to clarify in terms of which</p> <p>24 incident.</p> <p>25 Q. Well, the throwing of the leave</p>
<p style="text-align: right;">Page 75</p> <p>1 KOMPEL VERDI</p> <p>2 A. I didn't.</p> <p>3 Q. Now, on the following day, which</p> <p>4 was Sunday, did you and Mr. Figueroa again</p> <p>5 speak?</p> <p>6 A. Yes.</p> <p>7 Q. And was that during your shift?</p> <p>8 A. Yes.</p> <p>9 Q. Was it the same shift?</p> <p>10 A. Yes.</p> <p>11 Q. Approximately, what time did you</p> <p>12 and he speak?</p> <p>13 A. Sometime between 3:30 and 4:00.</p> <p>14 Q. And how did that conversation</p> <p>15 come about?</p> <p>16 A. Mr. Figueroa walked in to sign</p> <p>17 in. Other officers were waiting to leave,</p> <p>18 noticing he wanted to speak.</p> <p>19 Q. By the way, with reference the</p> <p>20 encounter on the 29th --</p> <p>21 A. Correct.</p> <p>22 Q. -- were there any officers who</p> <p>23 witnessed that encounter?</p> <p>24 A. Yes.</p> <p>25 Q. Who?</p>	<p style="text-align: right;">Page 77</p> <p>1 KOMPEL VERDI</p> <p>2 slip, you never reported that, right?</p> <p>3 A. Correct.</p> <p>4 Q. How about the incident in the</p> <p>5 detention room, were there any witnesses?</p> <p>6 A. Yes. Mr. Fasano and several</p> <p>7 other officers who I don't know who they</p> <p>8 are.</p> <p>9 Q. Have you seen anyone give a</p> <p>10 statement alleging that Mr. Figueroa threw a</p> <p>11 piece of paper at you?</p> <p>12 A. When you're involved in an</p> <p>13 incident, you only give a statement to the</p> <p>14 person requesting it. So I don't know if</p> <p>15 there were any requested or given.</p> <p>16 Q. You didn't see anything after</p> <p>17 the fact, did you?</p> <p>18 A. No.</p> <p>19 Q. Now, on the following day I</p> <p>20 think you indicated that you and Mr.</p> <p>21 Figueroa spoke at this sign-in area?</p> <p>22 A. Yes.</p> <p>23 Q. And who spoke first?</p> <p>24 A. He did.</p> <p>25 Q. What did he say?</p>

20 (Pages 74 - 77)

Page 78

1 KOMPEL VERDI

2 A. Mr. Figueroa said that he wanted

3 to take a minute to apologize, that he knew

4 he had spoken to me in an incorrect manner,

5 that he wanted to forget the incident and

6 move on.

7 Q. And what, if anything, did you

8 say?

9 A. I didn't respond. I said -- I

10 did. I apologize. I did respond. I said

11 to him, I agreed that he was wrong and I

12 didn't go any further.

13 Q. Did you use the word apology?

14 A. No.

15 Q. Did you tell him essentially,

16 well, you know, let's just forget about it?

17 A. No, I did not.

18 Q. Did Mr. Figueroa use the word

19 apology?

20 A. Yes. He apologized.

21 Q. Apologized?

22 A. Yes.

23 Q. Did he say words to the effect,

24 "We are both adults. Let's just forget

25 about it. We can agree to disagree and

Page 79

1 KOMPEL VERDI

2 let's just get on with our lives?"

3 A. I don't remember that statement.

4 Q. Did you believe that

5 Mr. Figueroa was being sincere?

6 A. It didn't matter if he was or

7 not. I didn't even think about it.

8 Q. And why didn't you even think

9 about it?

10 A. I didn't think about, because as

11 far as I was concerned, I felt threatened by

12 him and I just wanted him to walk out.

13 Q. When you said you felt

14 threatened by him, you testified that you

15 were letting him vent and you never walked

16 out of the room, right?

17 A. Correct.

18 Q. Now, when you and he spoke the

19 day after on December 30th, did you believe

20 that Mr. Figueroa should receive

21 disciplinary action for what happened?

22 A. I didn't think either way, but I

23 knew I should document it.

24 Q. And why did you believe it was

25 necessary to document it after he, according

Page 80

1 KOMPEL VERDI

2 to you, had apologized?

3 A. Because he was in subordinate.

4 The entire incident on 29th was

5 insubordination.

6 Q. How was he being insubordinate?

7 A. By screaming at a supervisor, by

8 threatening with his hands a supervisor.

9 Q. But you just testified that you

10 were letting him vent.

11 A. I was letting him vent, however,

12 that doesn't mean his action have to be

13 threatening.

14 Q. Now, did you believe that Mr.

15 Figueroa should be disciplined as a result

16 of this incident?

17 A. Yes.

18 MR. WOLIN: Please mark this.

19 (Whereupon, at this time, the

20 above-mentioned letter, dated

21 1/3/08, was marked by the

22 reporter as Plaintiff's Exhibit

23 3, for identification, as of

24 this date.)

25 Q. I show you what has just been

Page 81

1 KOMPEL VERDI

2 marked as Plaintiff's Exhibit 3; have you

3 ever seen that document before?

4 A. No.

5 Q. I haven't shown it to you yet.

6 A. I looked at this one right

7 there.

8 Q. Look at the one I'm showing you;

9 have you ever seen is that document before?

10 A. No. May I read it for a moment?

11 Q. Sure. Absolutely.

12 A. Thank you.

13 (Short pause in proceedings.)

14 A. Okay.

15 Q. Who was Supervisor Mitnick at

16 the time?

17 A. Supervisor at the mail branch.

18 Q. Was he considered Mr. Figueroa's

19 immediate supervisor?

20 A. I don't know.

21 Q. And I want to direct your

22 specific attention to the second paragraph

23 of this document.

24 A. Sure.

25 Q. I'm quoting now, "I was assigned

Page 82

1 KOMPEL VERDI
2 four to twelve at the mail facility on
3 Saturday, 12/29/07. During my tour of duty
4 SCBPO Sachdeva repeatedly requested that she
5 and I have a personal discussion," and I
6 will stop right there; do you agree with
7 that statement?
8 A. No.
9 Q. I'm going on. "I acquiesced and
10 she and I spoke in the detention room for a
11 brief period. At the end of the
12 conversation I felt ill and told SCBPO
13 Sachdeva that I was sick. I was released
14 and went home."
15 What, if anything, do you
16 disagree with in reference to what I just
17 read?
18 A. Sure. We did speak in the
19 detention room. He did tell me he felt sick
20 and he was -- he wasn't released. He on his
21 own took it upon himself and walked out.
22 Q. I'm sorry, he took it upon
23 himself and walked out?
24 A. Yes.
25 Q. So you would have let him vent

Page 83

1 KOMPEL VERDI
2 more if he didn't walk out?
3 A. No. I would have responded to
4 his request of sick leave, but it wasn't a
5 request. The leave slip was thrown at my
6 face and he walked out, which is another act
7 of insubordination.
8 Q. Which you never reported?
9 A. Correct.
10 Q. As a supervisor, wasn't it your
11 obligation to report what you viewed to be
12 acts of insubordination?
13 A. Right. Maybe I will go back and
14 amend my statement.
15 Q. Six years later?
16 MR. LYNCH: Objection.
17 Argumentative. Let's move on.
18 Q. Anyway, when Mr. Figueroa
19 indicated he was sick, was that still in the
20 detention room?
21 A. No.
22 Q. Where were you and he when he
23 indicated that he was sick?
24 A. It was in what we called the
25 11's office.

Page 84

1 KOMPEL VERDI
2 Q. Where is that in relation to the
3 detention room?
4 A. It's down the hallway. It's
5 actually on the floor where the supervisor's
6 office is.
7 Q. Now, the following paragraph
8 recounts what happened the following day.
9 "The following day as I was signing in I
10 spoke to SCBPO Sachdeva regarding the
11 previous evening's conversation. SCBPO
12 Sachdeva and I apologized to one another
13 over our erroneous misunderstanding and
14 unresolved issue. We both agreed to openly
15 discuss any issues that may arise in the
16 future to prevent any further
17 misunderstandings." Now, tell me what you
18 disagree with, if anything, with reference
19 to that paragraph?
20 A. It sounds great, but it's -- it
21 was all one-sided. The conversation was
22 one-sided on Mr. Figueroa's behalf.
23 Q. So when he says here that you
24 and he apologized to one another, you agree
25 with that statement?

Page 85

1 KOMPEL VERDI
2 A. I do not.
3 Q. And when he talks about an
4 erroneous misunderstanding and unresolved
5 issue, were those terms ever used during
6 this conversation?
7 A. No.
8 Q. Then it says here, "We both
9 agreed to openly discuss any issues that may
10 arise in the future"; is that what happened
11 according to you?
12 A. No.
13 Q. Now, the following paragraph,
14 the last paragraph, he says that on January
15 3rd he was ordered by Supervisor Mitnick to
16 prepare a memo. Do you how that came about
17 that he was ordered to prepare a memo?
18 A. No, I don't.
19 Q. Other than the two documents
20 that you have identified, Exhibits 1 and
21 two, did you furnish any other written
22 reports concerning your interaction with Mr.
23 Figueroa?
24 A. Yes, I did.
25 Q. And was that to a Mr. Parisi.

<p style="text-align: right;">Page 86</p> <p>1 KOMPEL VERDI</p> <p>2 A. No. I am talking about a</p> <p>3 document of -- it was just a memo regarding</p> <p>4 Mr. Figueroa changing his assignment without</p> <p>5 management's approval.</p> <p>6 Q. When did that happen?</p> <p>7 A. January.</p> <p>8 Q. Did that directly involve the</p> <p>9 encounter that we have been discussing?</p> <p>10 A. No.</p> <p>11 Q. It was a different issue?</p> <p>12 A. Yes.</p> <p>13 Q. Did you furnish any other</p> <p>14 written statements concerning the issue that</p> <p>15 we're discussing today?</p> <p>16 A. Mr. Parisi wrote a statement and</p> <p>17 I signed it.</p> <p>18 Q. We'll get to that a second.</p> <p>19 Other than that, was there</p> <p>20 anything?</p> <p>21 A. Not that I can recall.</p> <p>22 Q. The statement that you gave to</p> <p>23 Mr. Parisi, eventually, was written by him?</p> <p>24 A. Yes.</p> <p>25 Q. And did you make any changes to</p>	<p style="text-align: right;">Page 88</p> <p>1 KOMPEL VERDI</p> <p>2 A. That's what I understand.</p> <p>3 Q. Have you ever seen that notice</p> <p>4 of proposed suspension?</p> <p>5 A. Yes.</p> <p>6 MR. WOLIN: Please mark this.</p> <p>7 (Whereupon, at this time, the</p> <p>8 above-mentioned letter, dated</p> <p>9 3/17/08, was marked by the</p> <p>10 reporter as Plaintiff's Exhibit</p> <p>11 4, for identification, as of</p> <p>12 this date.)</p> <p>13 Q. I show you what we have just</p> <p>14 marked as Exhibit 4; have you ever seen that</p> <p>15 document before?</p> <p>16 A. Yes.</p> <p>17 Q. And is that what you take to be</p> <p>18 the notice of proposed suspension?</p> <p>19 A. Yes.</p> <p>20 Q. Now, the proposing official was</p> <p>21 Robert Meekins; is that correct?</p> <p>22 A. Yes.</p> <p>23 Q. Did you ever speak to</p> <p>24 Mr. Meekins at the time about the incident</p> <p>25 that occurred in December of 2007?</p>
<p style="text-align: right;">Page 87</p> <p>1 KOMPEL VERDI</p> <p>2 it?</p> <p>3 A. If I did, I would have initialed</p> <p>4 it. If I didn't, then you wouldn't see my</p> <p>5 initials on the pages.</p> <p>6 Q. And the report that we have, is</p> <p>7 that the only version of the report that</p> <p>8 exist or were there prior drafts?</p> <p>9 MR. LYNCH: Objection. You</p> <p>10 can answer.</p> <p>11 A. You would have to ask</p> <p>12 Mr. Parisi. That's the only version that I</p> <p>13 have seen.</p> <p>14 Q. Well, of course, you can only</p> <p>15 testify to what you know. You haven't seen</p> <p>16 any other drafts?</p> <p>17 A. No.</p> <p>18 Q. It's your testimony that if any</p> <p>19 changes would have made on that statement</p> <p>20 would have been initialed by you?</p> <p>21 A. Correct.</p> <p>22 Q. Now, was Mr. Figueroa ultimately</p> <p>23 served with a notice a proposed suspension</p> <p>24 arising from the encounter that you have</p> <p>25 testified to?</p>	<p style="text-align: right;">Page 89</p> <p>1 KOMPEL VERDI</p> <p>2 A. Not that I can recall. He was</p> <p>3 my chain of my command and I spoke with Ms.</p> <p>4 Rios.</p> <p>5 Q. And so the chain of command, Ms.</p> <p>6 Rios was your immediate supervisory?</p> <p>7 A. Yes.</p> <p>8 Q. And Mr. Meekins was second in</p> <p>9 line?</p> <p>10 A. Yes.</p> <p>11 Q. When did you speak to Ms. Rios?</p> <p>12 I know obviously we have seen a couple of</p> <p>13 documents that you sent to her; did you</p> <p>14 otherwise speak to her about the encounter</p> <p>15 with Mr. Figueroa?</p> <p>16 A. Not -- not about suspension or</p> <p>17 anything like that. That was between her</p> <p>18 and upper management. That had nothing to</p> <p>19 do with me.</p> <p>20 Q. Did you speak to her about what</p> <p>21 had happened?</p> <p>22 A. What had happened? No, just in</p> <p>23 the memos.</p> <p>24 Q. Other than what is in the memos,</p> <p>25 you had no other communication with her; is</p>

23 (Pages 86 - 89)

<p style="text-align: right;">Page 90</p> <p>1 KOMPEL VERDI</p> <p>2 that your testimony?</p> <p>3 A. Yes. I wasn't asked to furnish</p> <p>4 anything, so it wasn't a topic of</p> <p>5 conversation every day at lunch.</p> <p>6 Q. Well, I'm not saying it was.</p> <p>7 I'm asking you if you spoke to her?</p> <p>8 A. No. We didn't need to discuss</p> <p>9 it.</p> <p>10 Q. Other than these two documents</p> <p>11 that you have furnished, did you have any</p> <p>12 other communications with her, whether</p> <p>13 E-mail or otherwise --</p> <p>14 A. Every day.</p> <p>15 Q. -- concerning the events that</p> <p>16 you are testifying to today?</p> <p>17 A. No. She had told me that he was</p> <p>18 going to be served a notice of suspension.</p> <p>19 She didn't tell me when, she didn't tell if</p> <p>20 it was served and I didn't ask for it.</p> <p>21 That's for the upper management to deal</p> <p>22 with, not me.</p> <p>23 Q. Did she ask your opinion as to</p> <p>24 whether or not you believed Officer Figueroa</p> <p>25 should be served with a notice of</p>	<p style="text-align: right;">Page 92</p> <p>1 KOMPEL VERDI</p> <p>2 4/18/08 was were marked by the</p> <p>3 reporter as Plaintiff's Exhibit</p> <p>4 s 5, for identification, as of</p> <p>5 this date.)</p> <p>6 Q. Before I ask you about this</p> <p>7 exhibit, let me ask you a couple of other</p> <p>8 questions.</p> <p>9 A. Sure.</p> <p>10 Q. Now, you testified previously</p> <p>11 that on the 29th you started speaking with</p> <p>12 Mr. Figueroa because he looked angry, words</p> <p>13 to that effect or upset?</p> <p>14 A. Yes.</p> <p>15 Q. And he didn't say anything, but</p> <p>16 it was by his expressions that you saw that?</p> <p>17 A. Yes.</p> <p>18 Q. What did you observe?</p> <p>19 A. His facial expressions.</p> <p>20 Q. Can you tell me what you those</p> <p>21 facial expressions were or describe them?</p> <p>22 A. The opposite of happy.</p> <p>23 Q. I'm sorry?</p> <p>24 A. Not cheerful, down.</p> <p>25 Q. Well, can you describe what</p>
<p style="text-align: right;">Page 91</p> <p>1 KOMPEL VERDI</p> <p>2 suspension?</p> <p>3 A. No.</p> <p>4 Q. After December 29th, 2007, did</p> <p>5 you speak to anyone about what had happened</p> <p>6 on December 29th, 2007?</p> <p>7 A. Just my immediate managers via</p> <p>8 the E-mail and via the memo.</p> <p>9 Q. Who are they?</p> <p>10 A. Ben Sciacca, Tim Jernigan,</p> <p>11 Charlie Mattina and Armand Mitnick.</p> <p>12 Q. That's the E-mail?</p> <p>13 A. Yes.</p> <p>14 Q. Did you communicate with anyone</p> <p>15 in any other fashion, after December 29,</p> <p>16 2007, concerning your encounter with Mr.</p> <p>17 Figueroa?</p> <p>18 A. I don't recall.</p> <p>19 MR. WOLIN: Please mark this.</p> <p>20 MR. LYNCH: Before he marks</p> <p>21 that, let's take a minute.</p> <p>22 (Whereupon, at this time a</p> <p>23 brief recess was taken.)</p> <p>24 (Whereupon, at this time, the</p> <p>25 above-mentioned Letter dated</p>	<p style="text-align: right;">Page 93</p> <p>1 KOMPEL VERDI</p> <p>2 facial expressions led you to believe that</p> <p>3 he was down or not happy?</p> <p>4 A. He wasn't smiling.</p> <p>5 Q. Okay. So if somebody doesn't</p> <p>6 smile that means --</p> <p>7 A. No. It's not even -- you know,</p> <p>8 it was just not cheerful. You could see</p> <p>9 that there was something bothering him. We</p> <p>10 are in the business of noticing facial</p> <p>11 expressions and he looked like something was</p> <p>12 bothering him. So as a manager I decided to</p> <p>13 see. I didn't know if it was something at</p> <p>14 home, something at work, but I decided to</p> <p>15 ask him, in case he wanted to talk.</p> <p>16 Q. And at that time, did you have</p> <p>17 any idea that it concerned the holiday</p> <p>18 assignment?</p> <p>19 A. No.</p> <p>20 Q. Now, you also indicated</p> <p>21 previously that you had written a memo in</p> <p>22 January of 2008 concerning Mrs. Simon?</p> <p>23 A. Yes.</p> <p>24 Q. Can you describe what that was</p> <p>25 all about?</p>

24 (Pages 90 - 93)

<p style="text-align: right;">Page 94</p> <p>1 KOMPEL VERDI</p> <p>2 A. Sure. About a month later,</p> <p>3 obviously a little less than month later,</p> <p>4 apparently Mr. Figueroa did not want to work</p> <p>5 with some new officers and made it clear to</p> <p>6 other officers that he was not willing to</p> <p>7 work with new officers and he on his own</p> <p>8 decided, with another officer, to switch</p> <p>9 assignments. All assignment changes usually</p> <p>10 go through a manager.</p> <p>11 So the other officer came to me</p> <p>12 and said this is what happened and to avoid</p> <p>13 any conflict I will go take his assignment.</p> <p>14 Q. And who is that officer that</p> <p>15 came to you?</p> <p>16 A. Barbara Sole (sic).</p> <p>17 Q. And who are the officers that</p> <p>18 you claim he didn't want to work with?</p> <p>19 A. I don't know which officers it</p> <p>20 was at this time, but that's what she told</p> <p>21 me. He doesn't want to work with new</p> <p>22 officers.</p> <p>23 Q. And did you speak to Officer</p> <p>24 Figueroa about that?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 96</p> <p>1 KOMPEL VERDI</p> <p>2 memo?</p> <p>3 MR. LYNCH: You were provided</p> <p>4 with it, yes.</p> <p>5 Q. Who did you issue that memo to?</p> <p>6 A. I believe Ms. Rios.</p> <p>7 Q. And --</p> <p>8 A. Actually, it's a memo to file.</p> <p>9 So it just gets typed. It was probably an</p> <p>10 E-mail to Ms. Rios and then goes in the</p> <p>11 employee file.</p> <p>12 Q. Now, if it went in the</p> <p>13 employee's file, doesn't the employee have</p> <p>14 to be given a copy of it?</p> <p>15 A. No.</p> <p>16 Q. And was Mr. Figueroa ever given</p> <p>17 a copy of it?</p> <p>18 A. I don't know.</p> <p>19 Q. Did you ever give him a copy of</p> <p>20 it?</p> <p>21 A. No.</p> <p>22 Q. To your knowledge, was he given</p> <p>23 a copy of it?</p> <p>24 A. I don't know.</p> <p>25 Q. Do you have any reason to</p>
<p style="text-align: right;">Page 95</p> <p>1 KOMPEL VERDI</p> <p>2 Q. Do you know of any supervisors</p> <p>3 spoke to him about that?</p> <p>4 A. No.</p> <p>5 Q. Did you issue any written</p> <p>6 communication to Officer Figueroa about</p> <p>7 that?</p> <p>8 A. No.</p> <p>9 Q. Do you know, did any supervisor?</p> <p>10 A. No.</p> <p>11 Q. Why didn't you issue a written</p> <p>12 document to Officer Figueroa about what you</p> <p>13 were told?</p> <p>14 A. I documented it for my file. I</p> <p>15 did not discuss it with him, because we had</p> <p>16 already had an argument. I didn't want to</p> <p>17 make it worse. I was trying to avoid any</p> <p>18 sort of contact, if possible, with Mr.</p> <p>19 Figueroa.</p> <p>20 Q. Why didn't you have another</p> <p>21 supervisor talk to him about it?</p> <p>22 A. I don't remember if there was</p> <p>23 another supervisor on duty or not.</p> <p>24 MR. WOLIN: Do you know if</p> <p>25 have been provided with that</p>	<p style="text-align: right;">Page 97</p> <p>1 KOMPEL VERDI</p> <p>2 believe he was given a copy of it?</p> <p>3 A. I don't know if he was or not.</p> <p>4 Q. I want to get back to Exhibit 5;</p> <p>5 Have ever seen that document before?</p> <p>6 A. No.</p> <p>7 Q. Now, I want to direct your</p> <p>8 attention to the third paragraph of this</p> <p>9 document and I'm quoting now. "Since her</p> <p>10 arrival to the mail branch, Ms. Sachdeva has</p> <p>11 made numerous unwanted overtures toward me</p> <p>12 that can only be classified as improper.</p> <p>13 When Ms. Sachdeva was rebuffed, I started</p> <p>14 experience negative actions on the work</p> <p>15 front at her request"; do you see that?</p> <p>16 A. Yes, I do.</p> <p>17 Q. Did you ever make any type of</p> <p>18 romantic overtures to Officer Figueroa?</p> <p>19 A. No.</p> <p>20 Q. Now, Officer Figueroa has stated</p> <p>21 that on occasion you would bat your</p> <p>22 eyelashes in his direction; did you ever do</p> <p>23 that?</p> <p>24 A. No.</p> <p>25 Q. He also has stated that you</p>

25 (Pages 94 - 97)

<p style="text-align: right;">Page 98</p> <p>1 KOMPEL VERDI</p> <p>2 constantly smiled at him; did you ever do</p> <p>3 that?</p> <p>4 A. No.</p> <p>5 Q. Did you ever sit down in close</p> <p>6 proximity to him while he was having lunch</p> <p>7 in the lunch room?</p> <p>8 A. I can't recall sitting next to</p> <p>9 him, no.</p> <p>10 Q. Did you ever make comments to</p> <p>11 about what he was having for lunch?</p> <p>12 A. No.</p> <p>13 Q. Now, Officer Figueroa has stated</p> <p>14 on one occasion in the lunch room you placed</p> <p>15 your hand on his thigh; did you ever do</p> <p>16 that?</p> <p>17 A. No.</p> <p>18 Q. Now, he has also stated that you</p> <p>19 looked at him up and down in a seductive</p> <p>20 manner; did you ever do that?</p> <p>21 A. No.</p> <p>22 Q. Did you ever want to date</p> <p>23 Officer Figueroa?</p> <p>24 A. No.</p> <p>25 Q. Did you have any dating</p>	<p style="text-align: right;">Page 100</p> <p>1 KOMPEL VERDI</p> <p>2 Q. I said on that occasion he</p> <p>3 testified that you smiled at him --</p> <p>4 A. No. Can you go back for a</p> <p>5 moment?</p> <p>6 Q. Sure. He's saying that in or</p> <p>7 about October or November of 2006 he went to</p> <p>8 you to tell you that another officer wanted</p> <p>9 to see you.</p> <p>10 A. Because you just said another</p> <p>11 supervisor.</p> <p>12 Q. I believe it was a supervisor.</p> <p>13 A. So if I'm clear, I'm in the</p> <p>14 supervisor's office, but a supervisor sent</p> <p>15 an officer to come get me to speak to me?</p> <p>16 Q. I don't know what the exact</p> <p>17 details were, but he went into your officer</p> <p>18 saying that at another location the</p> <p>19 supervisor wanted to see you.</p> <p>20 A. No.</p> <p>21 Q. Now, while in the lunchroom, did</p> <p>22 you ever sit next to him to the point where</p> <p>23 there was no distance between the two of</p> <p>24 you?</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 99</p> <p>1 KOMPEL VERDI</p> <p>2 interests in him whatsoever?</p> <p>3 A. No, sir.</p> <p>4 Q. I'm sorry?</p> <p>5 A. No.</p> <p>6 Q. Now, Officer Figueroa has</p> <p>7 testified to one occasion in 2006 when he</p> <p>8 had requested access to the detention room</p> <p>9 and at that time you smiled and batted your</p> <p>10 eyes at him; do you ever remember such an</p> <p>11 incident?</p> <p>12 A. No.</p> <p>13 Q. Now, Mr. Figueroa has stated</p> <p>14 that during 2006 and/or into 2007 you would</p> <p>15 light up when he came into your presence;</p> <p>16 did you ever do that?</p> <p>17 A. No.</p> <p>18 Q. Now, Officer Figueroa has</p> <p>19 testified to another occasion in or about</p> <p>20 October, November of '06 when he went into</p> <p>21 your office to tell you that the another</p> <p>22 supervisor wanted to see you and on that</p> <p>23 occasion you smiled at him and looked at him</p> <p>24 up and down; did you ever do that?</p> <p>25 A. No. Can you repeat that?</p>	<p style="text-align: right;">Page 101</p> <p>1 KOMPEL VERDI</p> <p>2 MR. LYNCH: Objection.</p> <p>3 THE WITNESS: I'm sorry?</p> <p>4 MR. LYNCH: It's okay.</p> <p>5 Q. Did you ever press the side of</p> <p>6 your body up against the side of his body --</p> <p>7 MR. LYNCH: Objection.</p> <p>8 Q. -- in the lunchroom?</p> <p>9 MR. LYNCH: You can answer.</p> <p>10 A. No.</p> <p>11 Q. At any point did you ever ask</p> <p>12 where he got his lunch from?</p> <p>13 MR. LYNCH: Objection. You</p> <p>14 can answer.</p> <p>15 A. No.</p> <p>16 Q. Did Officer Figueroa ever ask</p> <p>17 you out on a date?</p> <p>18 A. No.</p> <p>19 Q. Did you ever ask him out on a</p> <p>20 date?</p> <p>21 A. No.</p> <p>22 Q. Now, during 2006, 2007, you were</p> <p>23 the not married; am I correct?</p> <p>24 A. Correct.</p> <p>25 Q. Were you dating anyone during</p>

26 (Pages 98 - 101)

<p style="text-align: right;">Page 102</p> <p>1 KOMPEL VERDI</p> <p>2 that time?</p> <p>3 A. Probably. I couldn't tell you</p> <p>4 right now.</p> <p>5 Q. Do you remember the names of</p> <p>6 anyone that you were dating during 2006,</p> <p>7 2007?</p> <p>8 A. No.</p> <p>9 Q. Other than your current husband,</p> <p>10 have you ever dated any employee of CBP?</p> <p>11 A. Yes.</p> <p>12 Q. How many?</p> <p>13 A. One.</p> <p>14 Q. Who?</p> <p>15 A. His name is Carlos Ortiz. At</p> <p>16 the time he was not with CBP.</p> <p>17 Q. And who was he with at the time?</p> <p>18 A. INS, immigration.</p> <p>19 Q. When was that?</p> <p>20 A. 2000, 2004.</p> <p>21 Q. Do you date him during that</p> <p>22 entire time?</p> <p>23 A. Yes.</p> <p>24 Q. Do you know an individual named</p> <p>25 S [Redacted] G [Redacted]'</p>	<p style="text-align: right;">Page 104</p> <p>1 KOMPEL VERDI</p> <p>2 MR. LYNCH: Objection.</p> <p>3 A. No.</p> <p>4 MR. WOLIN: On what basis?</p> <p>5 MR. LYNCH: Overly broad.</p> <p>6 Any contractor?</p> <p>7 Q. Now, at some point in 2006,</p> <p>8 2007, did you leave the mail branch for a</p> <p>9 period of time?</p> <p>10 A. Except for public affairs.</p> <p>11 Q. I'm sorry?</p> <p>12 A. I was -- public affairs was in</p> <p>13 2007.</p> <p>14 Q. And was that a temporary detail?</p> <p>15 A. Yes.</p> <p>16 Q. Where did you go?</p> <p>17 A. To Penn Plaza.</p> <p>18 Q. And how long were you at Penn</p> <p>19 Plaza for at that time?</p> <p>20 A. August of '07 through -- I'm</p> <p>21 sorry -- yeah, August of '07 through January</p> <p>22 of '08.</p> <p>23 Q. Were you at the mail branch from</p> <p>24 the time you became a supervisor in '06 for</p> <p>25 the remainder '06, were you assigned to the</p>
<p style="text-align: right;">Page 103</p> <p>1 KOMPEL VERDI</p> <p>2 A. I do.</p> <p>3 Q. Who is that?</p> <p>4 A. He was -- as far as I know, I</p> <p>5 don't know if he's still works there, he's a</p> <p>6 security contractor worker for the U.S.</p> <p>7 Postal Service.</p> <p>8 Q. He worked at JFK?</p> <p>9 A. Yes.</p> <p>10 Q. Did you ever date him?</p> <p>11 A. No.</p> <p>12 Q. Other than the individuals that</p> <p>13 you have discussed, have you ever dated any</p> <p>14 other government employee?</p> <p>15 A. No.</p> <p>16 Q. During 2006, 2007, do you</p> <p>17 remember the occupations of anyone else who</p> <p>18 you dated?</p> <p>19 A. No. It wasn't anybody from CBP,</p> <p>20 but no.</p> <p>21 Q. How about any federal government</p> <p>22 employee?</p> <p>23 A. No.</p> <p>24 Q. How about any contractor?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 105</p> <p>1 KOMPEL VERDI</p> <p>2 mail branch the entire time?</p> <p>3 A. Yes.</p> <p>4 Q. And until you were assigned to</p> <p>5 Penn Plaza in August of '07, during '07 were</p> <p>6 you at JFK the entire time?</p> <p>7 A. Yes.</p> <p>8 Q. Now, do you know supervisor</p> <p>9 Chance Youngs?</p> <p>10 A. The watch commander, yes.</p> <p>11 Q. Did you ever speak to Mr. Youngs</p> <p>12 about any anything to do with Mr. Figueroa?</p> <p>13 A. No.</p> <p>14 Q. Did you communicate with</p> <p>15 Mr. Youngs in any way, shape or form about</p> <p>16 anything having to do with Mr. Figueroa?</p> <p>17 A. No.</p> <p>18 Q. Do you know a supervisor named</p> <p>19 Cano, C-A-N-O?</p> <p>20 A. Yes.</p> <p>21 Q. Did you ever speak to Supervisor</p> <p>22 Cano about anything having to do with Mr.</p> <p>23 Figueroa?</p> <p>24 A. No.</p> <p>25 Q. Did you communicate with</p>

27 (Pages 102 - 105)

<p style="text-align: right;">Page 106</p> <p>1 KOMPEL VERDI</p> <p>2 Supervisor Cano in any way, shape or form</p> <p>3 about anything having to do with Officer</p> <p>4 Figueroa?</p> <p>5 A. No.</p> <p>6 Q. Now, was there an administrative</p> <p>7 inquiry into Mr. Figueroa's allegations that</p> <p>8 you made numerous unwanted overtures toward</p> <p>9 him?</p> <p>10 A. Yes.</p> <p>11 Q. And how did you find out there</p> <p>12 was an administrative inquiry?</p> <p>13 A. Mr. Parisi interviewed me.</p> <p>14 Q. Who is Mr. Parisi?</p> <p>15 A. He is a fact finder.</p> <p>16 Q. When did he interview you?</p> <p>17 A. Sometime in 2008. The end of</p> <p>18 2008.</p> <p>19 Q. And was that the first time you</p> <p>20 learned that Officer Figueroa claimed that</p> <p>21 he had rebuffed your overtures?</p> <p>22 A. No.</p> <p>23 Q. When was the first time you</p> <p>24 learned that?</p> <p>25 A. I believe it was April of 2008.</p>	<p style="text-align: right;">Page 108</p> <p>1 KOMPEL VERDI</p> <p>2 A. The other manager's, because</p> <p>3 everybody in the mail branch, the other</p> <p>4 managers in the mail branch, because they</p> <p>5 were being interviewed, so they came to me.</p> <p>6 Q. Who were they?</p> <p>7 A. Ben Sciacca, Charlie Mattina,</p> <p>8 Armand Mitnick, Tim Jernigan and Laura Rios.</p> <p>9</p> <p>10 Q. They were all interviewed by</p> <p>11 Mr. Parisi As well?</p> <p>12 A. I don't know if they were</p> <p>13 directly interviewed by Mr. Parisi, but</p> <p>14 Mr. Rios spoke with them as well. But</p> <p>15 Mr. Parisi was supposed to speak with them,</p> <p>16 because he asked me for their names.</p> <p>17 Q. So they approached you after</p> <p>18 they learned that there was an investigation</p> <p>19 ongoing.</p> <p>20 A. Yes.</p> <p>21 Q. Generally, what did each say to</p> <p>22 you?</p> <p>23 A. I can't recall.</p> <p>24 Q. Can you recall generally?</p> <p>25 A. Just that they are sorry I'm</p>
<p style="text-align: right;">Page 107</p> <p>1 KOMPEL VERDI</p> <p>2 Q. How did you learn about it then?</p> <p>3 A. Because I have served with a</p> <p>4 cease and desist letter.</p> <p>5 Q. By whom?</p> <p>6 A. By Ms. Rios.</p> <p>7 Q. And what did that cease and</p> <p>8 desist letter say?</p> <p>9 A. Basically, these were the</p> <p>10 charges against me and as a manager I should</p> <p>11 be aware of my actions at all times and that</p> <p>12 I am being investigated.</p> <p>13 Q. And what did she tell you were</p> <p>14 the charges against you?</p> <p>15 A. She didn't tell me. I read it</p> <p>16 in the letter.</p> <p>17 Q. And what did the letter say were</p> <p>18 the charges against you?</p> <p>19 A. Exactly what you're saying,</p> <p>20 numerous overtures, unwanted overtures,</p> <p>21 anything you pretty much asked me, it was in</p> <p>22 the letter.</p> <p>23 Q. Tell me everyone you spoke to</p> <p>24 concerning Mr. Figueroa's allegations that</p> <p>25 he had rebuffed your overtures?</p>	<p style="text-align: right;">Page 109</p> <p>1 KOMPEL VERDI</p> <p>2 going through this.</p> <p>3 Q. Did any of them ask you what</p> <p>4 happened?</p> <p>5 A. No.</p> <p>6 Q. Did anyone ask you to recount</p> <p>7 any facts as to what had happened?</p> <p>8 A. No.</p> <p>9 Q. Now, who would had given their</p> <p>10 names to Mr. Parisi as possible witnesses.</p> <p>11 A. Mr. Parisi asked for all the</p> <p>12 managers, so I gave him a list of all the</p> <p>13 managers there.</p> <p>14 Q. So did they all approach you,</p> <p>15 all of these people that you have</p> <p>16 identified, did they approach you after you</p> <p>17 gave Mr. Parisi their names?</p> <p>18 A. They probably approached me one</p> <p>19 other time and that was because my computer</p> <p>20 was confiscated to check for E-mails, if I</p> <p>21 had sent any E-mails to Mr. Figueroa.</p> <p>22 Q. Who confiscated your computer?</p> <p>23 A. Our own IT department.</p> <p>24 Q. And were there any E-mails?</p> <p>25 A. They never told me if there</p>

Page 110

1 KOMPEL VERDI
 2 were.
 3 Q. Should there have been any
 4 E-mails?
 5 A. No.
 6 Q. You indicated that in April of
 7 2008 you received this cease and desist
 8 order from Chief Rios; am I correct?
 9 A. Correct.
 10 Q. Other than receiving that
 11 writing, did you speak to Mr. Rios about the
 12 allegations that Officer Figueroa had
 13 rebuffed your overtures?
 14 A. No.
 15 Q. Did you speak to anyone, other
 16 than the people that you have identified,
 17 did you speak to anyone in management about
 18 the allegation that you had made overtures
 19 to Officer Figueroa?
 20 A. No.
 21 MR. WOLIN: You want to mark
 22 this.
 23 (Whereupon, at this time, the
 24 above-mentioned letter, dated
 25 9/8/08, was marked by the

Page 111

1 KOMPEL VERDI
 2 reporter as Plaintiff's Exhibit
 3 6, for identification, as of
 4 this date.)
 5 Q. After you received the cease and
 6 a desist letter from Chief Rios, did you
 7 duty status change at all?
 8 A. Status change?
 9 Q. Yes. Did you continue to
 10 perform your duties as before?
 11 A. My duties as a supervisor?
 12 Q. Yes.
 13 A. Yes.
 14 Q. What did the letter say to cease
 15 and desist from?
 16 A. Any action towards Mr. Figueroa,
 17 any unwanted action toward Mr. Figueroa.
 18 Q. And in April of 2007, were you
 19 both working in the mail branch? I'm sorry,
 20 April of 2008?
 21 A. Yes. For a short period of time
 22 at that point.
 23 Q. And at some point immediately
 24 thereafter Mr. Figueroa was transferred to
 25 cargo; is that correct?

Page 112

1 KOMPEL VERDI
 2 A. Yes.
 3 Q. And you continued acting as
 4 supervisor in the mail branch; is that
 5 correct?
 6 A. Yes.
 7 Q. Until the time that you were
 8 transferred to the CET program; is that
 9 correct?
 10 A. Correct.
 11 Q. I want direct your attention to
 12 Exhibit 6; have you ever seen this document
 13 before? I have it here. I'm sorry.
 14 A. No, I have not.
 15 Q. Did you ever speak to Helen
 16 Ashton; do you know who Helen Ashton is.
 17 A. I know who she is.
 18 Q. Who is she.
 19 A. She is an officer.
 20 Q. And did you ever speak to her
 21 about anything having to do with Officer
 22 Figueroa?
 23 A. No.
 24 Q. Do you know who Margaret
 25 Caropolo is?

Page 113

1 KOMPEL VERDI
 2 A. Yes.
 3 Q. Is she also an officer?
 4 A. She is.
 5 Q. Did you ever speak to her about
 6 anything having to do with Figueroa?
 7 A. She spoke with me.
 8 Q. And when did she speak to you?
 9 A. After Mr. Parisi interviewed
 10 her.
 11 Q. And what did she say to you?
 12 A. She just was surprised at the
 13 questions Mr. Parisi was asking, because she
 14 had spent a lot of time with me at the mail
 15 branch.
 16 Q. Is that the only time you spoke
 17 to her?
 18 A. She probably mentioned it maybe
 19 one or two times after that, within the week
 20 or so after that and then we never spoke
 21 about it again.
 22 Q. Does that refresh your
 23 recollection as to whether or not you spoke
 24 to anyone else, because I asked you that
 25 question before, anyone else, about Mr.

Page 114

1 KOMPEL VERDI
 2 Figueroa's allegations?
 3 A. No.
 4 Q. Did you speak to anyone else
 5 about Mr. Figueroa's allegations, other than
 6 the people you have identified?
 7 A. We didn't speak about
 8 allegations. We just spoke about the fact
 9 that she was interviewed and she was sorry
 10 for what I was going through. She didn't go
 11 through the details of what was spoken
 12 about.
 13 Q. But she was referring to Mr.
 14 Figueroa's allegations that you sexually
 15 harassed him, correct?
 16 A. I don't know if it was that or
 17 if it was the holiday schedule. I couldn't
 18 tell you.
 19 Q. Did anyone speak to you, other
 20 than the people that you have mentioned,
 21 about Officer Figueroa's allegations that
 22 you sexually harassed him?
 23 A. No.
 24 Q. Now, second page of this letter,
 25 Exhibit 6, I believe the last paragraph on

Page 115

1 KOMPEL VERDI
 2 the second page, starting with, "the
 3 relationship --"
 4 A. Yes.
 5 Q. -- he says here, "the
 6 Relationship with the postal police officer
 7 --"
 8 MR. LYNCH: Where are you
 9 reading from?
 10 MR. WOLIN: Last paragraph on
 11 page 2, page 1269.
 12 Q. It says, "The relationship with
 13 postal police officer lasted approximately a
 14 few months. It is at this time that SCBPO
 15 Sachdeva became involved with Sedact GRedacted.
 16 Mr. GRedacted is a security officer with the
 17 firm that the post office hires to perform
 18 the routine security functions that the
 19 postal police are excused from due to other
 20 priorities.
 21 "Supervisor Sachdeva begins to
 22 spend a large part of her day at
 23 Mr. GRedacted's security post engaged in
 24 longterm conversations." Do you agree with
 25 what Mr. Figueroa says?

Page 116

1 KOMPEL VERDI
 2 A. No.
 3 Q. Did you ever spend any time with
 4 Mr. GRedacted engaged in longterm
 5 conversations?
 6 A. Not with Mr. GRedacted not with
 7 the postal police at the same location.
 8 Q. If I asked you this before, I
 9 apologize. Did you ever date Mr. GRedacted?
 10 MR. LYNCH: Objection.
 11 A. No.
 12 Q. Did you ever date a postal
 13 police officer?
 14 A. No.
 15 Q. Now, the privous paragraph, the
 16 middle paragraph on page 2, Officer Figueroa
 17 says at the end of that paragraph, "At the
 18 this point in time I thought that her
 19 behavior would not repeat itself in that it
 20 was rumored and later confirmed by SCBPO
 21 Sachdeva that she was involved with the
 22 postal police officer assigned to the mail
 23 branch." Did you ever confirm to anybody
 24 that you were, "Involved with postal police
 25 officer"?

Page 117

1 KOMPEL VERDI
 2 A. No. Had I been asked out on a
 3 date, yes. Had I dated him? No.
 4 Q. Did you ever date the postal
 5 police officer?
 6 A. He just asked me on a date.
 7 Q. What was the name of the postal
 8 police officer that asked you on a date?
 9 A. Nick. I don't even know his
 10 last name anymore.
 11 Q. What was the first name?
 12 A. Nick.
 13 Q. I believe I asked you if you
 14 ever dated a CBPO. Did you ever ask a CBPO
 15 out on a date who did not go out with you?
 16 A. No.
 17 MR. LYNCH: Objection. You
 18 can answer.
 19 A. No.
 20 Q. Did any CBPO every ask you out
 21 on a date?
 22 A. I can't recall.
 23 Q. Now, the bottom of the first
 24 page of this document onto the second page,
 25 Mr. Figueroa talks about an incident that